

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VIRGINIA ELIZONDO,
Plaintiff,

VS.

SPRING BRANCH INDEPENDENT
SCHOOL DISTRICT, ET AL.,
Defendants.

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)
) CIVIL ACTION NO.
) 4:21-CV-1997
)
)

) 1:00 P.M.
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)

BENCH TRIAL
BEFORE THE HONORABLE SIM LAKE
UNITED STATES DISTRICT JUDGE
SEPTEMBER 9, 2024
VOLUME 1 OF 5

APPEARANCES:

FOR PLAINTIFF:

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ALSO PRESENT:

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I N D E X

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DEFENDANTS' EXHIBITS

<u>NO.</u>	<u>OFFRD</u>	<u>ADMTD</u>	<u>W/DRAW</u>
1-74	6	6	

1 (Call to Order of the Court.)

13:00:54 2 **THE COURT:** Good afternoon. Please be seated.

13:00:55 3 We're here this afternoon for a bench trial in civil
4 action H-21-1997, Virginia Elizondo versus Spring Branch
5 Independent School District. Beginning with plaintiff's
6 counsel, will each of you please identify yourself and your
7 clients?

13:01:13 8 **MR. ABRAMS:** Good afternoon, Your Honor. Barry
9 Abrams, Domingo Llagostera, Bob Scott, and our client, Virginia
10 Elizondo here in blue, Your Honor.

13:01:22 11 **THE COURT:** Thank you.

13:01:22 12 **MR. CRAWFORD:** Good afternoon, Your Honor. Charles
13 Crawford and Lucas Henry for Spring Branch ISD. We have
14 Dr. Jennifer Blaine as our representative.

13:01:30 15 **THE COURT:** Thank you.

13:01:30 16 I appreciate very much your efforts to streamline the
17 case and the plaintiff's proposed findings, which reflect the
18 parties' disagreements. The streamlining materials also say
19 that you've reduced the number of witnesses. Does each side
20 have a current witness list for the court reporter and the
21 Court?

13:01:52 22 **MR. ABRAMS:** Yes, Your Honor. I've already given the
23 plaintiff's to the court reporter, and I'll hand one up -- hand
24 one up to you, Your Honor.

13:02:03 25 (Document handed to the Court.)

1 **THE COURT:** Okay. All right. Defendant can give me
2 its whenever they're ready. I don't need it right this second.

3 All right. I think you agreed on each side has
4 15 minutes for opening statements. So plaintiff -- and I've
5 read all the materials. So...

6 **MR. ABRAMS:** Your Honor, there were two housekeeping
7 matters, with your permission.

8 **THE COURT:** Sure.

9 **MR. ABRAMS:** One, the parties have agreed to waive the
10 rule with respect to witnesses. So there's no need to exclude
11 the witnesses. And, second, the parties have conferred about
12 exhibits, and conditioned on the plaintiff's agreement to
13 withdraw Plaintiff's Exhibit 89, which the plaintiff will do,
14 both parties have withdrawn all of their objections to all of
15 the exhibits that are in your binder and on the exhibit list.

16 I don't know if you now or later, or the court
17 reporter now or later, wants a recitation of the numbers, but in
18 any event, those in the binder and on the list, subject to
19 confirmation from counsel, we've all agreed should be --

20 **THE COURT:** So the amended exhibit lists of plaintiff
21 and defendants, which were filed last week, except for
22 Plaintiff's 89, are all admitted?

23 **MR. ABRAMS:** That's correct.

24 **MR. HENRY:** Agreed.

25 **THE COURT:** Okay. So that'll save a lot of time.

1 Thank you.

13:03:18 2 **MR. ABRAMS:** You're welcome.

13:03:18 3 **MR. HENRY:** And then with respect to defendants'
4 exhibits, it's Nos. 1 through 74 with no objections from
5 plaintiff.

13:03:24 6 **THE COURT:** Okay. All right. Thank you very much.

13:03:28 7 **MR. HENRY:** Your Honor, would you like a witness list?

13:03:29 8 **THE COURT:** Sure. Just hand it to my law clerk,
9 please.

13:03:33 10 *(Document handed to the Court.)*

13:03:36 11 **THE COURT:** All right. Mr. Abrams?

13:03:38 12 **MR. ABRAMS:** Thank you. Good afternoon, and may it
13 please the Court.

13:03:40 14 The Court knows I'm Barry Abrams, along with my
15 colleagues, Bob Scott, Domingo Llagostera, Martin Golando. It's
16 our privilege to represent Dr. Virginia Elizondo in this, a
17 consequential case, involving the federally protected voting
18 rights of Hispanic residents in the Spring Branch Independent
19 School District.

13:03:59 20 **THE REPORTER:** I'm sorry. If you could --

13:04:02 21 **THE COURT:** Can you use the microphone? The court
22 reporter's having trouble hearing you.

13:04:10 23 **MR. ABRAMS:** All right. Sorry, I thought it was close
24 enough. Let me get up here.

13:04:10 25 How are we doing volume wise? Thank you.

1 The case, Judge, is consequential for several reasons.
2 First, to quote the truism: Elections have consequences. In
3 this case, dramatically demonstrates the consequences of having
4 an at-large electoral system and historical social and economic
5 conditions that for at least the past decade have blocked the
6 ability of Hispanic voters in Spring Branch to have their voices
7 heard and to elect their preferred candidates to the school
8 board.

9 Second, without having a seat at the table and a voice
10 on the school board, when that board makes important decisions,
11 those decisions have profound consequences for the Hispanic
12 community. For example, when the school district recently
13 addressed financial challenges facing -- facing the district due
14 to state funding functions, the consequence was that when the
15 school board decided to close various school campuses, the only
16 schools closed and the only campus academic programs terminated
17 were those located within the largely Hispanic and economically
18 disadvantaged portion of the community.

19 And then, third, because the Voting Rights Act we're
20 here to enforce guarantees Hispanic voters in the district that
21 their voices will be heard in the process, another consequence
22 is to empower the Hispanic parents whose children comprise a
23 majority of the students in the district. And by doing so, that
24 necessarily impacts the monopoly power that the affluent white
25 voting community has exercised throughout the district's

1 history.

13:05:50 2 It's that monopoly voting power that the Voting Rights
3 Act is intended to limit, and it is the impact on that, not only
4 voting power, that has drawn the ire of many portions of the
5 white community in Spring Branch. So these, then, are just a
6 few of the consequences of this important case.

13:06:10 7 It's important to know: How'd we get here? How did
8 we get to this point in history?

13:06:16 9 This is a tale of a single school district with two
10 disparate parts. One part is located north of Interstate 10 --
11 I'll call it I-10 -- and one is located mostly south of I-10.
12 In the southern part of the district, the students are more
13 likely to be white, affluent, go to college, and more likely to
14 meet or exceed the state's academic standards.

13:06:40 15 In the northern part of the district, the students are
16 more likely to be Hispanic, economically disadvantaged, drop
17 out, far less likely to meet current state academic standards,
18 and far more likely to be severely disciplined than their white
19 counterparts. One part of the district, therefore, is majority
20 white. The other portion is heavily minority.

13:07:03 21 The largely white portion of the district dates back
22 to the time before there were what are called the Memorial
23 Villages. The Memorial Villages were originally settled by
24 slave owners. The Memorial Villages as we know them today were
25 formed in 1954 and 1955 at the time of the U.S. Supreme Court

1 decision in *Brown versus Board of Education*, which as the Court
2 knows ordered the integration of public schools.

1 3 : 0 7 : 3 1 3 History teaches that Spring Branch began as a
4 homogenous, affluent, largely white district, but that's no
5 longer the case. Today, Spring Branch is highly segregated
6 racially, ethnically, and economically. Hispanic children
7 comprise 58 to 59 percent of the student population, and they're
8 zoned to largely segregated schools reminiscent of the so-called
9 Mexican schools that you'll hear about later from Dr. Tijerina,
10 which once were widely governmentally imposed across the state
11 of Texas.

1 3 : 0 8 : 0 9 12 So although the racial, ethnic, economic, and social
13 conditions in the district have changed very dramatically, the
14 government structure in the district has not, and it's not kept
15 up with the times. The diversity of the district's citizens and
16 students is not reflected in the elected leadership of the
17 district. So how does this happen?

1 3 : 0 8 : 3 2 18 Hispanic voters in Spring Branch have rarely been able
19 to elect their preferred candidates because Hispanic and white
20 majority voters have consistently preferred different
21 candidates, and the Hispanic population is submerged in a
22 majority population that regularly defeats their preferred
23 choices. This results in irreparable harm, we contend, under
24 the Voting Rights Act and impairs the voting rights guaranteed
25 by law to all citizens.

13:08:59 1 So this is a civil rights suit brought to vindicate
2 the right of Hispanic voters to have their voices heard and to
3 elect their preferred candidates to the school board.

13:09:08 4 The plaintiff, Virginia -- Dr. Virginia Elizondo, is a
5 Hispanic or Latino citizen and voter in Spring Branch, and she
6 brings this case to remedy the violations of Section 2 of the
7 Voting Rights Act. The Voting Rights Act, as the Court knows,
8 guarantees all citizens the right to vote in a meaningful way.

13:09:30 9 Last year, in *Allen v. Milligan*, the Supreme Court of
10 the United States reaffirmed the standard that was announced
11 back in the famous *Gingles v. Thornburg* case where the Supreme
12 Court described: (As read) The essence of a Section 2 claim is
13 when a certain electoral practice or structure interacts with
14 social and historical conditions to cause an inequality in the
15 opportunities enjoyed by minority and white voters. That occurs
16 where an electoral structure operates to minimize or cancel out
17 minority voters' ability to elect their preferred candidates.
18 Such a risk is greatest where minority and majority voters
19 consistently prefer different candidates and where minority
20 voters are submerged in a majority population that regularly
21 defeats their choices.

13:10:15 22 That is what this case is about, and this is a
23 textbook Voting Rights Act --

13:10:21 24 **THE COURT:** I have a question.

13:10:23 25 **MR. ABRAMS:** Yes, Your Honor.

1 **THE COURT:** The defendants point out, in their trial
2 brief, that the -- Ms. Elizondo and the other Hispanic residents
3 could have availed themselves of Texas Education Code
4 Section 11.052 if 15 percent or 15,000 registered voters
5 petitioned the board to create a Hispanic district. What's your
6 response to that? I may have missed it in the proposed
7 findings.

8 **MR. ABRAMS:** Well, I don't think we addressed in the
9 findings, so you didn't miss anything, Judge. You're right on
10 target.

11 The first response is there's no statutory out under
12 the federal Voting Rights Act because the residents might try to
13 assemble and garner enough votes to ask the school board to
14 conduct -- to implement a single-member plan. That's not a --
15 exhaustion of the state remedy is not relevant to the
16 constitutional and statutory obligation that the district has to
17 follow the law.

18 Second of all, it's virtually impossible, as you will
19 hear when you hear the testimony about the social, economic, and
20 political conditions in the district, to organize a large enough
21 group of citizens to trigger that act.

22 So that, very simply, is the response. It's not a
23 practical solution. It's not a statutory or administrative bar
24 to the federal courts enforcing the Constitution in the Voting
25 Rights Act.

13:11:50 1 **THE COURT:** Thank you.

13:11:54 2 **MR. ABRAMS:** The ability of the Hispanic voters that I
3 am representing vicariously through Dr. Elizondo to elect their
4 preferred candidates is consistently canceled out based on the
5 following factors: First, you'll hear evidence that the
6 Hispanic and white voters in the district consistently prefer
7 different school boards' candidates; second, the Hispanic voters
8 are submerged in a majority population that regularly defeats
9 their preferred choice; third, the method the district has
10 chosen to structure its trustee elections disadvantages the
11 Hispanic voters for a variety of reasons. For example, the
12 district uses the at-large system which allows the white voting
13 population to dilute the votes of the minority community rather
14 than using single-member districts where Hispanic voters could
15 comprise a voting majority of the population in one or more
16 districts.

13:12:50 17 Second, the district has reduced the number and
18 location of polling locations in the district from 25 to seven,
19 which has made it more difficult for Hispanic voters to cast
20 their ballots because the Election Day polling locations are
21 fewer in number and are located farther from where Hispanic
22 voters live.

13:13:10 23 Third, the district has preferentially placed early
24 voting locations in areas much more convenient to the white
25 voters than the Hispanic voters, which has profoundly affected

1 election results as early voter turnout in district elections
2 vastly exceeds the Election Day voting, and it is now widely
3 acknowledged in the district that school board trustee elections
4 are won in early voting, not on Election Day.

13:13:39 5 The district has also failed to comply with Texas
6 election laws regarding registration of 18-year-old students,
7 which would increase Hispanic voter participation given the
8 prevalence of the Hispanic students throughout the northern
9 portions of the district.

13:13:52 10 And, finally, you're going to hear that there continue
11 to exists the legacy of historical conditions involving
12 education, employment, health, and transportation, which hinder
13 the ability of the Hispanic community to participate effectively
14 in the process.

13:14:10 15 As the Court knows, proof of a voting rights case has
16 two parts. The first part involves the so-called *Gingles*
17 factors. Here, the evidence will prove, first, that the
18 minority group, the Hispanic or Latino group, is sufficiently
19 large and geographically compact --

13:14:27 20 **THE COURT:** You may have already addressed this, but I
21 have a question about it.

13:14:31 22 **MR. ABRAMS:** Yes, Your Honor.

13:14:32 23 **THE COURT:** Your recent proposed findings indicate
24 that over half of the students are Hispanic. The preferred
25 remedy is to create, as I understand it, a single-member

1 district that would follow, roughly, the middle school
2 attendance Zone 1. Is that the proposed remedy?

13:14:54 3 **MR. ABRAMS:** Yes -- yes. Illustrative Zone 1 is
4 portions of the so-called Northbrook and Landrum Middle School
5 zones, and our proof and our requirement is only to show it's
6 sufficient to comprise one.

13:15:07 7 **THE COURT:** Well, I know. I'm not arguing with you.

13:15:09 8 **MR. ABRAMS:** No, no, no. I wasn't trying to argue
9 with you.

13:15:11 10 **THE COURT:** My point is: Are you asking the Court to
11 draw boundaries for the other districts?

13:15:19 12 **MR. ABRAMS:** The answer is yes. The first phase of
13 this case is for the Court to decide whether a remedy is
14 appropriate, and what is necessary is for the plaintiff to
15 produce a plan -- in this case a seven-district plan -- that
16 complies with the one-person, one-vote rule, complies with
17 requirements of communities of interest and the like, and we've
18 done that.

13:15:40 19 **THE COURT:** Okay. Assuming you establish the *Gingles*
20 factors and the other criteria --

13:15:45 21 **MR. ABRAMS:** Right.

13:15:45 22 **THE COURT:** -- and I agree that Zone 1, for want of a
23 better term, would be an appropriate district of -- that would
24 allow Hispanics to exercise one vote for one official, am I
25 then, at the second stage, going to have to hear evidence on all

1 the other boundaries?

13:16:05 2 **MR. ABRAMS:** No. What -- what I understand the
3 process to be, Your Honor, is if you order a remedy, that is,
4 the adoption of a seven-member plan, the district will have an
5 opportunity to propose a plan, which must, obviously, address
6 the needs of the voters in District 1 but comply with the other
7 requirements in the remaining districts, and that would not be a
8 matter of evidence. It would be a matter of the parties
9 addressing collectively whether the plan proposed by the
10 district is or isn't acceptable to the plaintiff and the Court.

13:16:35 11 **THE COURT:** Okay. Well, I'll ask the defense counsel
12 about that in his argument. Thank you.

13:16:39 13 **MR. ABRAMS:** Well, with respect to the *Gingles*
14 factors, since it sounds like you are more than up-to-speed on
15 those items, I'm not going to devote much more time to that --

13:16:48 16 **THE COURT:** Thank you.

13:16:48 17 **MR. ABRAMS:** -- but what I will turn to, briefly, is
18 the totality of the circumstances part of this analysis because,
19 after compliance with the *Gingles* factors, which we represent
20 will be established clearly, the second analysis is looking at
21 what are called the Senate factors, which derive from a 1982
22 Senate report when Congress amended the Voting Rights Act.

13:17:08 23 **THE COURT:** I've looked at those. Both parties say
24 that there's no magic number I have to -- I have to find, and
25 you have given me -- it's like going to the cafeteria. You've

1 given me various stations. I can get broccoli or asparagus or
2 sweet potatoes or all of the above, or I don't have to get all
3 of the above.

13:17:27 4 What's the fewest number that appellate courts have
5 allowed in affirming a finding under Section 2?

13:17:34 6 **MR. ABRAMS:** The two factors that, in the case law and
7 in the reports that I've seen, are the most significant --
8 they're not necessary, but they're the most significant have to
9 do with your conclusions about the existence of polarized and
10 cohesive voting in the district --

13:17:48 11 **THE COURT:** Okay.

13:17:50 12 **MR. ABRAMS:** -- and, second of all, the extent to
13 which a minority candidate -- the preferred candidate of the
14 minority group, I should say, has or hasn't been elected in the
15 district. Those are the two factors which have been --

13:18:02 16 **THE COURT:** And you argue that there's only been one
17 Hispanic elected, and he was really, for want of a better word,
18 a token Hispanic?

13:18:09 19 **MR. ABRAMS:** That's right. But even more importantly,
20 Your Honor, is a factor that's going to run through this case.
21 The plaintiff's case is not that the Voting Rights Act
22 guarantees that a Hispanic ethnic candidate will be elected; the
23 Voting Rights Act is a voting rights act, not a candidates right
24 act.

13:18:27 25 **THE COURT:** Okay.

13:18:27 1 **MR. ABRAMS:** And so the issue, which you will hear
2 abundant testimony about, is: Who did the Hispanic voters
3 prefer? There are many elections where there are no minority
4 candidates, but the Hispanic community, like every other
5 conscience voter, has preferences. And so it's the fact that
6 this system has allowed the non-Hispanic voters to override the
7 preferences of the Hispanic voters that violates the act.

13:18:53 8 And in the case of the candidate you mentioned, which
9 we do contend is a token selected in a slating process run by
10 the white affluent southern south side district voters, is not
11 representative of the Hispanic preferences, and Dr. Stein's
12 analysis shows he got a minuscule portion.

13:19:11 13 **THE COURT:** Well, how is he going to show that the
14 Hispanics favor -- is it Mr. Kaczinski?

13:19:19 15 **MR. ABRAMS:** Yes.

13:19:19 16 **THE COURT:** How is he going to show that? Or are you
17 going to show that?

13:19:22 18 **MR. ABRAMS:** Well, he's going to show it because there
19 are traditional statistical analyses. The most prevalent one
20 now is called ecological inference where social scientists use
21 what is widely accepted as a practice to evaluate voting
22 behavior in a particular district, correlate the behavior with
23 the percentage of Hispanics in a particular district, and draw
24 statistical inferences that are valid.

13:19:46 25 **THE COURT:** Okay. I'll wait to hear him about that.

13:19:49 1 **MR. ABRAMS:** That is the well-accepted model. And as
2 you'll hear from Dr. Stein, he originally did a regression
3 analysis because he thought that was probably the easiest and
4 most appropriate way to show polarization. He was then
5 criticized, and so then he ran an ecological inference analysis,
6 which showed the same results.

13:20:06 7 Then he was criticized because there's a modern --
8 more modern version of that program, and he ran it with the more
9 modern program. All of those methods, you will hear him say,
10 show that he has robustly analyzed the question, and the answer
11 to the question, no matter how you ask it intellectually,
12 honestly, is the same.

13:20:21 13 **THE COURT:** Thank you.

13:20:27 14 **MR. ABRAMS:** Well, because you've zeroed in on the
15 various factors, I'm not going to walk you back through them.
16 We'll do it in the case.

13:20:32 17 But the last factor, which is kind of interesting, is
18 the district has the burden of establishing that its reliance on
19 the at-large system is more than just tenuous. And I've always
20 thought this was an intriguing argument, for a defendant to beat
21 their chest and scream about how outrageous single-member
22 districts were in light of the fact that more than 140 Texas
23 school districts use single-member districts, our City of
24 Houston City Council structure involves single-member districts,
25 our Harris County Commissioner's Court has a single-member

1 district structure, Houston Community College and most of the
2 community colleges involve single-member structures, the Texas
3 Legislature and the House of Representatives has single-member
4 structures, and our U.S. House of Representatives involves a
5 single-member structure.

13:21:21 6 So the horrors -- the parade of horrors that have been
7 tossed around from time to time by the -- by the district and
8 its counsel about a single-member plan seem, to me, to be
9 hollow.

13:21:32 10 So our position, quite simply, Judge, is the Voting
11 Rights Act assures the Hispanic parents in Spring Branch, whose
12 children comprise the majority of the students in the district,
13 a constitutional and statutory right to have a seat at the table
14 and to have their voices heard and to enhance their ability to
15 elect candidates to the school board who share their preferences
16 and their views about the education their children should
17 receive.

13:21:59 18 On behalf of Dr. Elizondo and my colleagues and the
19 Hispanic voters that Ms. -- Dr. Elizondo represents, we want to
20 express our appreciation for the important role that federal
21 courts generally, and this federal court in particular, plays in
22 guaranteeing these federally protected voting rights. I want to
23 assure you that my colleagues and I will endeavor to present our
24 case expeditiously and efficiently, and we thank you in advance
25 for your time and attention to this consequential case.

13:22:30 1 **THE COURT:** Thank you, Mr. Abrams.

13:22:32 2 Mr. Crawford?

13:22:39 3 **MR. CRAWFORD:** Good afternoon. May it please the
4 Court.

13:22:42 5 I know the Court is very aware with the Voting Rights
6 Act law, but I'd like to point out a few highlights we would ask
7 the Court to consider when reviewing the evidence in the case.
8 First of all, it's the plaintiff's burden to show all three of
9 the *Gingles* -- three *Gingles* preconditions, and the failure to
10 meet her burden to show any one of the three is fatal.

13:23:05 11 Importantly, at-large systems are not, per se, Voting
12 Right [sic] Act violations. Whether an at-large system violates
13 the Voting Rights Act depends upon a searching practical
14 evaluation of the past and present reality, and on a functional
15 view of the political process. Regarding the present reality,
16 the Supreme Court has warned that unless historical evidence is
17 reasonably contemporaneous with a challenged decision -- and
18 here we're talking about Spring Branch's at-large system -- it
19 has little probative value.

13:23:43 20 Thus, the most relevant historical evidence is
21 relatively recent history, not long-past history. I believe
22 what the Court is going to hear, at least in part from the
23 plaintiff's experts, is about long-past history that has little
24 probative value to the present reality.

13:24:01 25 Turning to the first *Gingles* pre-condition, which is

1 compactness, that requires the plaintiff to submit one or more
2 illustrative districts with at least a 50 percent
3 minority-majority, and in this case the minority group would be
4 Hispanics. Critically, the illustrative district must account
5 for traditional districting principles, such as maintaining
6 communities of interest and traditional boundaries -- and this
7 is the plaintiff's burden to show -- and race cannot dominate
8 over traditional districting principles. In other words, race
9 can't be the only common thread that binds certain areas
10 together.

1 3 : 2 4 : 3 7 11 Here, the evidence will show that plaintiff's expert,
12 Dr. Stein, did not account for traditional districting
13 principles at all when drawing the single Hispanic majority
14 illustrative district that he proposes. He admittedly did not
15 respect neighborhoods and subdivisions and did not try to keep
16 them in tact, nor did he take into account or respect census
17 blocks; did not take into account one person or one vote.
18 Rather, race dominated his methodology in drawing his
19 illustrative district. Because of this failure, the Court
20 should find that plaintiff has failed to meet her burden under
21 *Gingles* one.

1 3 : 2 5 : 2 0 22 Turning to *Gingles* two, which is minority cohesion,
23 again, here the relevant minority groups are Hispanics in
24 Spring Branch ISD. The -- Dr. Elizondo has no evidence of
25 Hispanic -- of Hispanic cohesion prior to 2015, which is the

1 year Dr. Stein's analysis begins. Since 2015, the evidence is
2 going to show that there's only been, at most, moderate Hispanic
3 cohesion in Spring Branch ISD, and relevant to the present
4 reality, there was no Hispanic cohesion in the most recent 2024
5 school board election.

1 3 : 2 6 : 0 2 6 Turning to *Gingles* three, which is white bloc voting,
7 this requires a plaintiff to show that the white majority votes
8 sufficiently as a bloc to enable it to usually defeat the
9 minority preferred candidate, and the courts have said "usually"
10 is an important word in this concept, and "usually" means most
11 of the time; certainly more than 50 percent of the time.

1 3 : 2 6 : 2 7 12 Here, there is no evidence of white bloc voting to
13 defeat preferred Hispanic candidates of choice in any election
14 prior to 2015 because although Spring Branch has been having
15 elections since 1946, the 2015 elections are the first elections
16 Dr. Stein analyzed. So we have 60 to 70 years of election
17 history not accounted for, and it is our position that by not
18 accounting for 70 years of Spring Branch's 78-year voting
19 history, the plaintiff fails to meet the "usually" standard for
20 *Gingles* 3.

1 3 : 2 7 : 0 9 21 In addition, a significant crossover vote by Whites
22 supports a finding that voting is not racially polarized, and
23 here I believe the evidence will show significant white
24 crossover voting. Here, the evidence will not show that since
25 Spring Branch's at-large system was implemented, that white

1 voting, when considering crossover voting, usually defeated the
2 Hispanic candidate of choice in most cases in Spring Branch
3 elections. The evidence will be insufficient to prove racially
4 polarized voting in Spring Branch.

13:27:46 5 Importantly, in addition to the three *Gingles*
6 preconditions and the totality of the circumstances, in *Harding*
7 *versus County of Dallas*, the Fifth Circuit created what Judge Ho
8 characterized as an additional requirement on plaintiffs in
9 Section 2 cases. And Judge Ho, in his concurring opinion
10 summarized that new --

13:28:17 11 **THE COURT:** I think you quoted it in your brief.

13:28:20 12 **MR. CRAWFORD:** We did, and so I'll just leave it at
13 that, his quote.

13:28:24 14 He essentially says they -- in the proposed
15 illustrative district, you must actually show that it has a
16 chance of working. Not guaranteed success, but a chance of
17 working.

13:28:34 18 And in the additional case of *Fusilier versus Landry*,
19 which was decided after the *Harding* case in 2020, the
20 Fifth Circuit again reiterated that voter turnout is important
21 and must be considered, and they characterized it as it bears on
22 the totality of the circumstances.

13:29:00 23 And I would like to read from what the Fifth Circuit
24 said in the *Landry* case -- we did not quote that in our brief --
25 and that is this: They first said, "Because black voter turnout

1 is substantially lower than white voter turnout, the Attorney
2 General argues there is no reasonable opportunity for the
3 threadbare majority of black voters in District 1 to elect a
4 candidate of their choice. The first *Gingles* precondition,
5 however, does not require a showing that a majority of the
6 voters in a future election will be black. All the plaintiffs
7 have to show is that the black minority is numerous enough to
8 'constitute a majority in a single-member district.' That is
9 not to say that the probability of blacks electing their
10 preferred candidates in future elections is irrelevant. To the
11 contrary, this bears on the totality of the circumstances, which
12 we discuss later."

13 Then later in the opinion, the Fifth Circuit states:
14 "We must also [sic] consider voter turnout, an issue mentioned
15 previously in passing. As this court recently explained,
16 plaintiffs need not demonstrate guaranteed success under a
17 hypothetical redistricting plan to prevail on their claim of
18 vote dilution," citing the *Harding* -- *Harding* case. "Yet, at
19 the same time, 'an alternative map containing an additional
20 majority-minority district does not necessarily establish an
21 increased opportunity.' And as *Perez* and *Harding* remind,
22 plaintiffs must meet the overarching demand that their new
23 districting scheme enhances their ability to elect candidates of
24 their choosing," citing *Perez*, the Supreme Court opinion.

25 "The plaintiffs' experts acknowledged that black voter

1 turnout in Terrebonne Parish lags behind white voter turnout.
2 Relatedly, the defendants' expert attested that a 56 percent
3 black voting age population was required to ensure blacks have
4 the opportunity to elect their preferred candidates. At best,
5 the plaintiffs' proposed remedial district had a black voting
6 age population of 53.33 percent. That the plaintiffs' proposed
7 minority-majority district sufficiently enhances minority
8 voters' ability to elect the candidates of their choice is not a
9 well-supported proposition on this record."

13:31:14 10 And the court -- Fifth Circuit went on to find that
11 the district court erred by finding the Voting Rights Act was
12 violated and, in part, because of the failure to take into
13 consideration voter turnout in the proposed illustrative
14 district.

13:31:30 15 Here, the plaintiff has no evidence that her sole
16 illustrative district, which is 58 -- 52.8 percent Hispanic
17 majority, would in fact perform as she hopes in light of the low
18 Hispanic voter turnout in this district, which was less than
19 20 percent of the actual voters. And that is fatal under the
20 additional consideration that the Court must go through to make
21 sure the illustrative district would, in fact, work as hoped.

13:32:03 22 Turning to the totality of the circumstances, the
23 Senate factors, obviously the -- as the Court is aware,
24 satisfying *Gingles* one through three does not end the analysis.
25 In fact, the analysis can completely change under the totality

1 of the circumstances. As the Court has said, this final inquiry
2 can be powerful indeed.

1 3 : 3 2 : 2 2 3 As you noted with Mr. Abrams, the Senate factors are
4 not exhaustive and not every factor will be relevant in every
5 case, but one factor that must be considered that we just talked
6 about in the *Landry* case is low Hispanic voter turnout in
7 Spring Branch ISD elections. And again, not to repeat myself,
8 but based on low Hispanic voter turnout in Spring Branch
9 elections, and including in Dr. Stein's proposed illustrative
10 district, the evidence will show that plaintiff's proposed
11 illustrative district, which is a 52.8 percent Hispanic
12 majority, will not work to elect candidates as she hoped in
13 light of the low Hispanic turnout in the -- in that district,
14 which, again, is less than 20 percent of the actual voters.

1 3 : 3 3 : 1 4 15 Another factor this Court should consider is that the
16 evidence will show that partisan politics, not race, best
17 explains Spring Branch election results since 2015, and, again,
18 the most recent history is the most relevant history. And here
19 partisan politics include Republican versus Democrat,
20 conservative versus liberal, teacher union versus non-teacher
21 union, and how we were handling the COVID crisis. That was a
22 big player in the trustee elections during COVID -- a big
23 player. Had nothing to do with race; all about partisan
24 politics.

1 3 : 3 3 : 5 0 25 Another factor is that Spring Branch's at-large

1 elected school board is responsive to Hispanic and minority
2 needs. The evidence is going to show that since at least the
3 2007 bond election, Spring Branch has focused bond money to
4 improve and rebuild school facilities on the north side equally
5 to the south side. The evidence is going to show that
6 Spring Branch spends more money per student in its economically
7 disadvantaged schools than its non-economically disadvantaged
8 schools.

1 3 : 3 4 : 2 5 9 The evidence is going to show that Spring Branch now
10 has a successful bilingual program that meets or exceeds state
11 requirements. The evidence is going to show that
12 Spring Branch's economically disadvantaged schools are
13 significantly improving under the TEA's A through F
14 accountability standards.

1 3 : 3 4 : 4 3 15 Another factor that the Court should consider, and you
16 mentioned it with Mr. Abrams, is that, unique to Texas public
17 schools, Texas Education Code 11.052 and Spring Branch policy
18 allows 15 percent of the registered voters -- and it doesn't
19 have to be Hispanic voters, but it could be. It's just
20 15 percent of the voters --

1 3 : 3 5 : 0 4 21 **THE COURT:** You heard Mr. Abrams' response. What is
22 your reply to his response as to the relevance of that argument?

1 3 : 3 5 : 1 1 23 **MR. CRAWFORD:** Sure, Your Honor. I go to the fact
24 that the totality of the circumstances is a nonexistent --
25 nonexistent -- non-exhaustive list, and the fact that Texas has

1 a mechanism that -- it's not applicable to cities or counties or
2 other states, but --

13:35:26 3 **THE COURT:** Have you found any --

13:35:27 4 **MR. CRAWFORD:** -- unique to school districts, is a
5 totality of the circumstance the Court at least should consider.

13:35:30 6 **THE COURT:** Have you found any case from any
7 jurisdiction that's relied on a similar state right to argue --
8 to rule against the plaintiff in a Section 2 case?

13:35:43 9 **MR. CRAWFORD:** The answer is no because I don't
10 believe there is a -- a similar statute that has ever been
11 argued or used.

13:35:48 12 **THE COURT:** Okay. Thank you.

13:35:49 13 **MR. CRAWFORD:** In Texas -- in federal courts in Texas,
14 I don't know that's ever been argued before.

13:35:53 15 **THE COURT:** Okay.

13:35:54 16 **MR. CRAWFORD:** I will tell you, though, that the state
17 courts that have looked at the statute -- and there are a very
18 few -- have said that if the 15 percent of the voters send the
19 proposition, it is a ministerial duty of the school board to put
20 it on the ballot. And so if the -- if the voters of
21 Spring Branch were really interested in going to single-member
22 districts, they have had this ability, and have chosen not to.
23 And, again, I think that's at least a factor the Court ought to
24 consider. Is it determinative? No. But is it a factor? Yes.

13:36:27 25 Finally, I think you're going to hear, again, that

1 Texas, the state, has a past history of Hispanic voting
2 discrimination, but here the relevant political subdivision is
3 Spring Branch ISD, not the state of Texas, not Harris County,
4 not Houston, and the relevant time period is recent history, not
5 long-past history.

1 3 : 3 6 : 5 6 6 And thus, at the end of the day, the argument is that
7 the plaintiff has failed to meet her burden under any of the
8 three *Gingles* pre-conditions and -- nor has she met her burden
9 under the totality of the circumstances test. And because she
10 has failed to meet her burden, the Court ought to dismiss her
11 case and find in the school district's favor on her Voting
12 Rights Act claim. Thank you.

1 3 : 3 7 : 2 5 13 **THE COURT:** Thank you.

1 3 : 3 7 : 2 5 14 I appreciate both counsel who have done an excellent
15 job in foreshadowing the issues I must deal with. As I told you
16 at a previous conference, I view bench trials as somewhat
17 analogous to a seminar. So after you've each asked a witness
18 questions, I may ask the witness questions also.

1 3 : 3 7 : 4 6 19 And since plaintiff has submitted 52 pages of proposed
20 findings, not all of which I've committed to memory, I may, from
21 time to time, ask you, after a witness has testified, to refer
22 to the yellow proposed findings, that is, the disputed ones, to
23 which the witness's testimony is designed to favor the
24 plaintiff, if that makes sense.

1 3 : 3 8 : 1 2 25 You may call your first witness.

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MR. ABRAMS: Thank you, Your Honor. At this time, the plaintiff calls Dr. Duncan Klussmann to the stand.

THE COURT: Please come around, sir, and be sworn. Please raise your right hand.

(Witness sworn.)

THE COURT: Thank you. Please be seated. When you're comfortably seated, pull the microphone to you so that we can hear you. And then please state and spell your name for the court reporter.

THE WITNESS: Duncan Klussmann. It's D-U-N-C-A-N K-L-U-S-S-M-A-N-N.

THE COURT: Thank you.

Mr. Abrams, you may proceed.

MR. ABRAMS: Thank you, Your Honor.

DUNCAN KLUSSMANN, DULY SWORN, TESTIFIED:

DIRECT EXAMINATION

BY MR. ABRAMS:

Q Dr. Klussmann, you've already introduced yourself to the Court.

I want to address with you five topics today, which I've noted on the pad. The five topics we're going to visit about today have to do with the location of the school district that's the defendant and its ethnic and economic demographics; second, the performance of the schools in the north and south parts of the district; third, governance issues relating to the district;

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fourth, the electoral system in the district; and, fifth, the at-large versus single-member election methods, all right, sir?

A Yes, sir.

Q Before we briefly discuss your upbringing and educational history, I want to put your testimony in context.

How are you familiar with Spring Branch, its students, its schools, its voters, and its method of electing its school board trustees?

A A couple of ways. Growing up in Brenham, you -- heard of Spring Branch my whole life kind of growing up. We just -- the district and -- and things that it accomplished over time.

In 1996, I became the principal of Spring Branch Middle School. So I started my journey in Spring Branch at that time, and I retired in 2015 as superintendent of schools.

Q How long did you serve as superintendent of the Spring Branch schools?

A Eleven years. I was named interim superintendent in September of 2004, I was named superintendent in December of that year, and I retired in December of 2015.

Q Have you been in every Spring Branch school on every Spring Branch campus; met with residents in virtually every neighborhood and community in the district?

A I have.

Q All right. Let's get a geographic focus on where the district is located.

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MR. ABRAMS: Richard, may we have Plaintiff's

Exhibit 102, please?

BY MR. ABRAMS:

Q Dr. Klusmann, can you see that on the monitor and/or on the screen?

A I can.

Q Where is the Spring Branch district located? It's a little hard on the screen, but hopefully, on the monitor, you'll be able to make out the boundaries.

A Well, it's on the west side of Houston. It's boundaried by 610, the West Loop; kind of follows Hempstead Highway up to Clay Road, I think; goes over into the Addicks Dam; goes down to I-10 out into kind of the middle Energy Corridor; down to Buffalo Bayou, and follows the bayou all the way back to 610, with I-10 kind of going down the middle of the district.

Q What are the cities in which the district is located?

A I think there are five or six with the City of Houston, but Spring Valley, Hedwig Village, Memorial Villages, Piney Point, and Hedwig -- I said Hedwig. Hilshire Village, I think, is the only one I didn't mention.

Q You're aware this lawsuit takes issue with the method that the district is currently using to elect its school board trustees, and they do so at-large rather than from what are known as single-member districts, right?

A I am.

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Q All right. Before we talk to you more specifically about the subjects that you're aware of, let's talk briefly about your background both before and after joining Spring Branch.

MR. ABRAMS: Richard, may we see Exhibit 42, Dr. Klussmann's résumé?

BY MR. ABRAMS:

Q Where were you born and raised?

A I was born in Brenham, Texas.

Q Let's look at page 1.

Does it address your college and graduate training?

A It does.

Q Would you just briefly tell the judge about what your educational background was?

A I did -- after graduating from Huntsville High School, where we moved to when I was in high school, I graduated from -- or I went to Sam Houston State for two years and played tennis there, and then went to University of Texas, completed two -- double major -- a BBA in International Business and Finance.

I then went into education and worked on my masters, and completed my masters at Stephen F. Austin State University, and my doctorate at Seton Hall.

Q Are you a married man?

A I am.

Q Do you have children?

A I do.

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1 Q Did any of your children attend the Spring Branch schools?

2 A They did. All three, at some point in their career,
3 attended Spring Branch schools.

4 Q Which schools did your children attend?

5 A Our oldest --

6 Q Excuse me. And what parts of the district were they
7 located?

8 A Our oldest son, Cameron, attended Northbrook High School.
9 So he went to Northbrook for half his junior year and senior
10 year. Northbrook is the most impoverished high school within
11 the district.

12 And then Will went to Stratford High School. He
13 transferred to Stratford High School for his high school years
14 and graduated from Stratford.

15 And Caroline, our youngest, went to Sherwood Elementary
16 School; a short time at Westchester Academy, maybe one year;
17 Spring Oaks Middle School; and then Spring Woods High School.

18 Q With regard to your children's experiences at Northbrook
19 High School and Spring Woods High School, what are the majority
20 ethnic populations at those two schools your children attended?

21 A Hispanic.

22 Q Are those schools, to use the term, affluent or economically
23 disadvantaged?

24 A Economically disadvantaged.

25 Q As a parent, what did you learn from the experience of

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1 having your children in different Spring Branch schools?

1 3 : 4 4 : 0 3 2 **A** Well, Spring Branch is a very unique place. It's really
3 kind of two distinctly different districts in one, and so what
4 happened -- you know that, obviously, when you work there and
5 you're part of the system, but when you sense that and you feel
6 it and you experience it as a parent and as a kid, our kids
7 doing that, it's a completely different experience.

1 3 : 4 4 : 2 6 8 And so it really -- you know, being an educator who, I
9 thought I was always there for every kid, it really --
10 particularly when Cameron went to Northbrook High School, and it
11 really opened my eyes to the challenges and the struggles in
12 that community.

1 3 : 4 4 : 4 2 13 **Q** Can you elaborate on that? What sort of challenges or
14 struggles did you become aware of because you had a child at
15 Northbrook?

1 3 : 4 4 : 4 8 16 **A** Yeah. So -- so Cameron, you know, as he started to go there
17 and make friends, his friends would, you know, invite him to
18 their home or they would be in our home. So you get very close
19 to the students. I can remember one student whose dad was
20 incarcerated in Alabama. His mom was an alcoholic and dying,
21 and Rudy's living in -- he's living in an apartment with nine
22 other adult men sleeping on the floor.

1 3 : 4 5 : 2 1 23 You just realize some of the challenges that you just can't
24 even imagine as a parent and with your own kids.

1 3 : 4 5 : 2 7 25 **Q** Let's touch briefly on your employment history before you

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got to the district, and if you would, let's look at page 2 of Exhibit 42, your résumé.

Does that pick up and give us sort of a horseback view of your educational experiences before you arrived at Spring Branch?

A It does.

Q When you first went to work in Spring Branch, as I understand it, you were a principal of a middle school?

A I was. I went, in September of '96, and became the principal at Spring Branch Middle School.

Q And during your tenure, you moved up through the ranks and had different positions.

What responsibilities did you have as area superintendent with respect to elections?

A So I -- as respect to elections?

Q Yes.

A So I didn't have any responsibility in elections with my area superintendent role, but when I was assistant superintendent for finance and operations, elections fell in that office, and we had the responsibility of running the election.

Q We'll touch in greater detail on your familiarity with the Spring Branch electoral process in a moment.

Let's turn to page 6 of your résumé, Exhibit 42. If you would, tell us what you consider to be some of your major

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1 accomplishments or advances while you were superintendent at the
2 school district.

1 3 : 4 6 : 4 6 3 **A** Yeah. I mean, there were several. We had just a great team
4 and great community support, several things during that time.
5 We -- towards the end of my time there, we went to a single
6 focus goal as a system. It was called T-2-4. It still exists
7 in the district today, and it was to double the number of kids
8 in Spring Branch who completed some form of higher education,
9 defining that as technical certification, military training, 2-
10 or 4-year degree.

1 3 : 4 7 : 1 2 11 I think, probably, we were the only district ever to have a
12 single focus goal like that at the time, and, in fact, today the
13 state has really adopted that as one of their primary goals for
14 public education.

1 3 : 4 7 : 2 5 15 We also developed a new partnership called the SKY
16 Partnership with KIPP and YES Prep schools that brought these
17 two charter schools into schools, really trying to go into this
18 impoverished area and bring kids back into their neighborhood
19 school. I think it was successful at doing that. We increased
20 academic performance over time. 75 percent of our students were
21 college and career ready. 55 percent were enrolling in some
22 form of higher education in the state of Texas. That doesn't
23 include kids going out of state, which we had a significant
24 portion going out of state.

1 3 : 4 8 : 0 1 25 We passed, at the time, the largest bond issue, 594- or

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1 -5 million dollars, replacing, eventually, 13 elementary schools
2 that had been built in the '50s and '60s pre-air conditioning,
3 and replacing those schools. And we saved enough in that
4 program to do a 13th school and to go back into the old
5 Spring Branch High School and renovate that campus.

1 3 : 4 8 : 2 2 6 There are other things. It was a great team. We -- we hit
7 some very difficult budget times after the -- the mortgage
8 meltdown in 2008, and we returned the district to a positive
9 budget after that. I felt like that was something that we
10 really needed to do, and so I just felt like we had, you know,
11 many different positive things. Still many things to work on
12 and improve, but some very positive initiatives during that
13 time.

1 3 : 4 8 : 5 0 14 **Q** When did you retire from Spring Branch, and why did you
15 retire?

1 3 : 4 8 : 5 3 16 **A** I retired in December 2015. My wife and I, when I took the
17 job in 2004, said we're not going to change our lifestyle. I
18 didn't do -- you know, I didn't go out with vendors. I didn't
19 go on golfing outings or trips or dinners or anything, and we
20 just weren't going to change our lifestyle. And we were going
21 to do it in a way that when I hit what's called your rule of 80
22 in the state of Texas, when your service and your years hit 80,
23 you could retire at that time.

1 3 : 4 9 : 2 2 24 Also, I can remember, you know, just -- we were -- things
25 were on the upswing. I watched leadership my whole life, and

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1 there are many people who wait too long in leadership, and I
2 thought it was the right time to bring in new thought to the
3 district to take, you know, what we had done and take it to
4 another level. I just thought it was the right time to -- to
5 retire from the system at that point.

13:49:46 6 Q Did you leave on good terms?

13:49:47 7 A I did leave on good terms.

13:49:49 8 Q And in fact, afterwards, did the district actually name a
9 facility after you?

13:49:54 10 A They did, and very much honored; very much a surprise to me.
11 One of the greatest honors I've ever had, and they named a
12 campus after me.

13:50:04 13 Q What have you done since leaving Spring Branch?

13:50:06 14 Let's look at your résumé, page 1.

13:50:09 15 A When I first left Spring Branch, I worked for Rich and Nancy
16 Kinder and the Kinder Foundation, great Houstonians that do just
17 incredible things in the city, and I worked for them for their
18 foundation. They wanted to move more into the educational area,
19 and so I started working for them.

13:50:25 20 I just felt I was too far removed from the action, and so I
21 left the foundation, and I've done two things since then. I
22 teach full-time at the University of Houston in their College of
23 Education. I'm a -- this -- I actually got a promotion
24 recently. So I'm now assistant -- or I'm associate clinical
25 professor -- so I need to update my résumé -- and I teach

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1 courses for individuals getting their masters or doctorate
2 degree, becoming principals, superintendents.

13:50:53 3 I also do some consulting work, advising work in the state
4 of Texas with school districts, and, you know, that keeps me
5 close to the action.

13:51:03 6 **Q** In connection with the consulting work you're now doing for
7 Texas school districts, have you had occasion to work with any
8 school districts that use a single-member district plan for
9 electing their trustees?

13:51:14 10 **A** I have at different opportunities. I think El Paso, coming
11 off of their state-appointed board, was single-member district.
12 Beaumont, same thing, coming off of board of managers to
13 single-member district. I think, also, Victoria. I'm not sure
14 about Seguin -- are single-member districts.

13:51:34 15 **Q** Have you been active in leadership roles in the education
16 field? And with regard to that, let's look at page 3 of
17 Exhibit 42, your résumé, please.

13:51:44 18 **A** I have. You know, different roles. During my 11 years as
19 superintendent -- it's very odd. I don't think there's been too
20 many second presidencies of the Texas School Alliances. So
21 there's 34 of the larger districts in Texas that work on
22 assisting lawmakers with public policy, and I was able to serve
23 twice as president of that organization during my 11 years.

13:52:07 24 **Q** With regard to your involvement with community boards or
25 organizations active in the Spring Branch district, let's look

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at your résumé on pages 3 and 4.

Can you tell Judge Lake a little bit about what your community activity has been from the standpoint of board service?

A Yes. I'm very honored to be on the United Way Community Impact Committee, and had been on the United Way board and executive committee before. Also, I'm on the board of SpringSpirit Baseball, which is an incredible nonprofit really working in the Northbrook area of the school district.

I had served on the OneGoal board. I no longer serve on that board, but I've stayed very involved within the system.

Q What is the SpringSpirit program, and where is it specifically located in Spring Branch?

A So it's an incredible program. It's on Pitner Road, this most impoverished area of the district about a mile long, mile-and-a-half long road that has just thousands of apartments on it, you know, hundreds of apartments on each side of the road.

They went into areas -- it's an area that was a great struggle within the community, and there was a old apartment complex that was torn down, and this nonprofit out of the community went in and bought the property and put in a million-dollar AstroTurf baseball field right in the community and is very engaged in supporting that community.

They came to me initially when I was superintendent and

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1 said their idea, and I was like, you know, "You do that, we're
2 all in. We will do whatever it takes to get kids engaged in
3 this program." And it's just -- it's a group that really has
4 the best interest in mind for really helping students in that
5 area.

13:53:46 6 **Q** I want to zero in on the location of that.

13:53:49 7 **MR. ABRAMS:** Richard, let's look at Plaintiff's
8 Exhibit 24, please, which is the map of the proposed
9 illustrative districts.

13:53:56 10 And if you could blow that up, please.

13:54:00 11 No, Exhibit 24. There you go. Thank you.

13:54:03 12 **BY MR. ABRAMS:**

13:54:03 13 **Q** Can you tell Judge Lake where, within Exhibit 24, the
14 SpringSpirit facility is located?

13:54:10 15 **A** It's off of Pitner, but it's in -- around in that zone, or
16 what we're calling the single-member District 1, in that area.
17 It actually -- on the slide that they had that you took away,
18 Panda Path is really right in that same area.

13:54:25 19 **Q** What's the proximity of the SpringSpirit facility you
20 described to another facility that is known as the Spring Branch
21 Family Development Center?

13:54:34 22 **A** Just down the street from it.

13:54:36 23 **Q** What are the demographics generally of the area surrounding
24 the SpringSpirit facility and the Spring Branch Family
25 Development Center? Is that the street you mentioned?

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1 A It's overwhelmingly Hispanic, low-income community.

2 Q What is the Spring Branch Family Development Center?

3 A It was a center that -- we were very fortunate to have a
4 church in there called Chapelwood United Methodist that had, at
5 one time while I was superintendent, 17 to 19 programs
6 supporting the district. A group out of there came in, again to
7 an area where there was blighted property and built the center
8 that provides medical, I think Boys and Dads Club -- or the Boys
9 Club has been there, Boys and Girls Club, different
10 opportunities.

11 The school district, before I was superintendent, actually
12 contracted with the organization to put a pre-K center in the
13 facility also, and so it was just a very supportive -- there was
14 always an annual kind of, you know, immunization drive and
15 health fair at the beginning of the year. So just a very
16 supportive organization for the community and providing a very
17 impoverished community with support.

18 Q Are you familiar with the ethnic and economic
19 characterizations of the neighborhood around the SpringSpirit
20 and Family Development Center facilities?

21 A Yes.

22 Q What -- what are the ethnic groups, and what is the economic
23 status of that area?

24 A Very overwhelmingly Hispanic and low income.

25 Q With regard to language, what's the predominant language in

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that community in and around the SpringSpirit and Family
Development Center?

A Predominantly Hispanic.

Q Broadening out your focus a little bit to the area that's
been marked and proposed as Illustrative District 1 on
Plaintiff's Exhibit 24, are you familiar with the ethnic,
economic, and language characteristics of that larger area in
which SpringSpirit and the Family Development Center are both
located?

A Yes. Predominantly Hispanic, low income in that whole -- in
that whole area.

Q I don't want to belabor it, I know you don't want to talk
about it a lot, but let's look at your résumé on page 3,
Exhibit 42.

You've received a number of professional recognitions
during your term and service in the education field, have you
not?

A I was fortunate to, yes.

Q Okay. Now let's turn more specifically to what you know
about Spring Branch. We're going to now turn to what I call
topic one, the location and ethnic and economic demographics of
the district. I want to give the Court a snapshot of the
district when you worked there and the like.

We talked briefly about where the district is located.

MR. ABRAMS: Could we see Exhibit 102 again, please,

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Richard?

If you can blow that up.

BY MR. ABRAMS:

Q So you already placed us geographically on where the district is.

It's west Harris County, right?

A Yes.

Q And city of Houston and several -- I think it's five or six Memorial Villages comprise the district?

A Correct.

THE COURT: Let me ask a question. What -- where in this map are -- is the city of Houston found? Show us with your pointer please.

MR. ABRAMS: Yeah. Out -- let me say what's not. The Memorial Villages are embedded in -- and we'll have another graphic, which may be a little more clearer, Judge. The Memorial Villages are embedded in the district, and everything that is not within the Memorial Villages is in the city of Houston. And so let's -- let's see if we can take a look at --

THE COURT: Well, I mean, are they -- well, maybe my question's not clear enough.

MR. ABRAMS: Let's -- would you blow that up, Richard, please? Let me see if you can blow up Exhibit 102.

Magnify it. There you go.

Okay. So the so-called Memorial Villages, Judge, are

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Hunters Creek, Hedwig, there's a Piney Point and --

THE COURT: I know where they are. What I don't know is --

MR. ABRAMS: Everything else. Everything else.

THE COURT: Point out where the "everything else" would be.

MR. ABRAMS: Okay. Again, don't hold me to it, but, crudely, it's everything west of the villages all the way out to the Energy Corridor. It's everything north of 10, with the exception of Spring Valley Village, which is here (indicating) -- we'll have a better graphic for you later --

THE COURT: Okay.

MR. ABRAMS: -- and Hilshire Village, which is located here (indicating). Let me see if I can jump to --

THE COURT: That's sufficient. I just wanted an overview. Thank you.

MR. ABRAMS: Yes, Your Honor.

Let's look, Richard, at Plaintiff's Exhibit 9.

BY MR. ABRAMS:

Q I want to talk with you, Dr. Klussmann, with the election precincts in Spring Branch.

Is it the case that Spring Branch, at some point, adopted the middle school enrollment zones as its election precincts for voting?

A Yes, it is true.

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1 Q And with regard to Exhibit 9, were these the election
2 precincts in place when you left as superintendent?

3 A I think so.

4 Q And when you were superintendent after the system was
5 adopted, where did the voters vote on Election Day?

6 A On Election Day, they voted at the middle school locations.

7 Q And there were seven zones and seven middle school
8 locations, correct?

9 A Seven middle schools, correct.

10 Q Okay. And Exhibit No. 9 identifies the location of the
11 schools. The -- the vision -- the version on the monitor is
12 easier to see than the version on the screen.

13 If we want to look at middle schools, the key is in the
14 upper right-hand corner of the document, correct?

15 A Correct.

16 Q Middle schools are green dots, correct?

17 A Correct.

18 Q So if we look in the Landrum Middle zone, which is in red on
19 Exhibit 9, we'll see a green dot, and that's where Landrum
20 Middle School is, correct?

21 A Correct.

22 Q Forty-one?

23 A Yes.

24 Q Okay. Let's go back out just briefly.

25 You talked a moment ago about the location of Panda Path,

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the Family Development Center, and SpringSpirit.

On the map, there are yellow dots for pre-K centers, and can you tell Judge Lake where that area was you were describing around the pre-K, the Family Development Center, and SpringSpirit? Is that 129, the yellow dot?

A Yes. It's 129, and then the 105 is Hollibrook Elementary School. So it's just north of that 105, and 129 sits in that area.

Q Let's look, for clarity, at Exhibit 104. This is going to be the same map of the election precincts, but we've taken off some of the schools just so it's a little easier to understand the geography.

From time to time, we're going to be referring to the election precincts and the middle school enrollment zones interchangeably because they're one and the same, correct?

A Correct.

Q I now want to talk to you a little bit about the demographics in the district.

MR. ABRAMS: Let's look at Plaintiff's Exhibit 103, please.

BY MR. ABRAMS:

Q Do you recognize Exhibit 103 as a document that is taken from the district's website?

A Yes.

Q Document 103 summarizes what, as of 2021 -- looks like

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1 October 12 -- was the enrollment in the school district.

1 4 : 0 2 : 0 1 2 Was that, at that time, as far as you were aware, an
3 accurate enrollment figure?

1 4 : 0 2 : 0 6 4 **A** Yes. It's a little lower. I think we had around 35,000
5 students when I retired, and I think Hispanics, at that time,
6 made up 57 percent of the -- of the district. But it's all --
7 this looks pretty familiar with what I experienced during my
8 time as superintendent.

1 4 : 0 2 : 2 6 9 **Q** And the district summarizes a number of schools, and on the
10 right-hand side of Plaintiff's Exhibit 103, the district
11 characterizes what its demographics are.

1 4 : 0 2 : 3 5 12 What are they?

1 4 : 0 2 : 3 6 13 **A** 59 percent Hispanic, 27 percent white, 7 percent Asian,
14 5 percent African American, and 2 percent Other.

1 4 : 0 2 : 4 5 15 **Q** The district uses the term "economically disadvantaged."

1 4 : 0 2 : 4 9 16 **A** Yes.

1 4 : 0 2 : 4 9 17 **Q** What does the term "economically disadvantaged" mean in this
18 education context?

1 4 : 0 2 : 5 4 19 **A** My understanding, if it hasn't changed from the federal
20 government, is if a student is on free or reduced lunch, then
21 they're considered economically disadvantaged.

1 4 : 0 3 : 0 4 22 **Q** And with regard to the eligibility for free or reduced
23 lunch, what's your understanding generally about the income
24 levels that we're talking about for families?

1 4 : 0 3 : 1 3 25 **A** It's very low income for a family of -- you know, typically,

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1 it's a family of four, family of six, and it's a very low
2 threshold, particularly for -- for free lunch, but also for free
3 and reduced.

1 4 : 0 3 : 2 6 4 **Q** Now, obviously, children don't have income. So is this a
5 proxy for family income when determining whether or not a child
6 is economically disadvantaged?

1 4 : 0 3 : 3 5 7 **A** It is. It's a family's income and factored in with the
8 number of dependents in that family.

1 4 : 0 3 : 4 1 9 **Q** So with reference to the exhibit, the district is telling us
10 that 58 percent of the children in its schools come from homes
11 and families that are economically disadvantaged, right?

1 4 : 0 3 : 5 4 12 **A** Correct.

1 4 : 0 3 : 5 6 13 **Q** Now let's look at the economic disadvantage statistics for
14 the district broken out by north and south side schools.

1 4 : 0 4 : 0 4 15 **MR. ABRAMS:** Can we look at Exhibit 107, please,
16 Richard?

1 4 : 0 4 : 0 7 17 And can you blow that up just a little bit?

1 4 : 0 4 : 1 0 18 There we go. Thank you.

1 4 : 0 4 : 1 2 19 **BY MR. ABRAMS:**

1 4 : 0 4 : 1 3 20 **Q** Dr. Klussmann, this is a graphic that takes the election
21 precincts we looked at earlier, and then takes the district's
22 data and puts it on the map to show, by middle school feeder
23 pattern, what the economic disadvantaged ratios are.

1 4 : 0 4 : 3 0 24 Can you tell the judge what a feeder pattern is?

1 4 : 0 4 : 3 2 25 **A** A feeder pattern is, typically, you would like to keep

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1 kids -- it's hard to at times, but, you know, same elementary
2 moving to the same middle school to the same high school. So
3 you'd like a series of students to move through that. It's hard
4 to get what we call pure feeder patterns, but these kind of
5 represent what the basic feeder patterns are for each of those
6 schools.

14:04:53 7 **Q** So, for example, Northbrook Middle has -- Hollibrook
8 Elementary students go to Northbrook Middle; is that right?

14:05:00 9 **A** Yes. It has -- it has -- I think, if the previous
10 graphic --

14:05:08 11 **MR. ABRAMS:** Let's go back. Thank you, Richard.

14:05:10 12 **A** Yeah. So Northbrook Middle School is showing two here, but
13 I think it would have additional elementary schools that feed
14 into it.

14:05:18 15 **BY MR. ABRAMS:**

14:05:19 16 **Q** What is the percentage of economically disadvantaged factor
17 for the children at Hollibrook, which is one of the schools
18 located in District 1?

14:05:27 19 **A** Almost 100 percent. 99.72.

14:05:33 20 **Q** Let's contrast that. So if you look across the northern
21 tier of the district, the Spring Oaks Middle, Northbrook Middle,
22 Spring Woods Middle, and Landrum Middle zones, what pattern do
23 you see as far as the economic circumstances of the families and
24 children in that part of the district?

14:05:51 25 **A** Almost all of those schools exceed 90 percent low income.

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14:05:55 1 Q Now, directing your attention to the southern part of the
2 district, let's start -- let's go clock- -- basically, left to
3 right.

14:06:04 4 On the right-hand side, it's Spring Branch Middle zone,
5 with the exception of Woodview. And let me ask you: Is
6 Woodview on the north or south side?

14:06:14 7 A It's on the north side of I-10.

14:06:16 8 Q So if we exclude Woodview, because it's actually a north
9 side elementary, do you agree that the economically
10 disadvantaged ratios are substantially different from the north
11 side?

14:06:25 12 A You can see it's kind of a tale of two cities. You have
13 very low -- low on -- percent of low-income students, and you
14 actually have very affluent students, and then on the north side
15 a -- very high poverty rates.

14:06:41 16 Q And to the best of your knowledge, is that pattern of
17 economic conditions that existed between the north and the south
18 side the same general pattern that existed when you were
19 superintendent?

14:06:51 20 A It is.

14:06:53 21 Q Now, let's look closer at the racial and ethnic
22 characteristics within the district.

14:06:58 23 MR. ABRAMS: If you would, please, pull up Plaintiff's
24 Exhibit 8, please, Richard.

14:07:02 25 Judge, you earlier asked me to give you a better

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1 handle on where the villages are relative to the city.

2 Exhibit 8 outlines a segment of the district, and it shows you
3 the boundaries of the so-called Memorial Villages. Several --
4 all of -- all but two of which are on the south side. Spring
5 Valley Village and Hilshire Village are on the north side.

14:07:24 6 So if you were to telescope out to the overall map of
7 the district, if you take out this donut hole, everything else
8 is the city of Houston, Your Honor.

14:07:35 9 **THE COURT:** Thank you.

14:07:39 10 **BY MR. ABRAMS:**

14:07:39 11 **Q** So this -- do you recognize the general location of the
12 so-called Memorial Villages: Bunker Hill, Piney Point, Hunters
13 Creek, Hedwig Village, Spring Valley Village, and Hilshire
14 Village?

14:07:50 15 **A** Yes, I do.

14:07:51 16 **Q** Okay. Now let's look at Plaintiff's Exhibit 106, which
17 superimposes the demographics of the Memorial Villages from
18 Plaintiff's Exhibit 44 on the map of the villages.

14:08:00 19 Can you tell us what pattern is shown in the racial makeup
20 of each of the Memorial Villages?

14:08:07 21 **A** They're mainly Anglo communities.

14:08:13 22 **Q** And two of the villages with largely white populations are
23 north of 10, the Spring Valley Village and Hilshire Village,
24 correct?

14:08:20 25 **A** Yes.

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1 4:08:22 1 Q Is that right?

1 4:08:22 2 A That's correct.

1 4:08:23 3 Q All right. Now let's look at the racial and ethnic
4 characteristics of the district having focused on the Memorial
5 Villages.

1 4:08:30 6 **MR. ABRAMS:** Plaintiff Exhibit 105, please.

1 4:08:32 7 **BY MR. ABRAMS:**

1 4:08:32 8 Q Plaintiff's Exhibit 105 is taken from the data in
9 Plaintiff's Exhibit 1 on page 10, Table 2.

1 4:08:45 10 Looking across the northern tier of the district, is it --
11 do you agree with me that the pattern of the racial and ethnic
12 characterization is essentially largely Hispanic?

1 4:08:57 13 A Yes, that's correct.

1 4:08:58 14 Q In contrast to the pattern shown on Exhibit 105 in the
15 south?

1 4:09:03 16 A Correct.

1 4:09:07 17 Q Now, you indicated that you started in the district at
18 Spring Branch Middle School as their principal?

1 4:09:14 19 A I did.

1 4:09:16 20 Q At one point, you shared with me an anecdote about an
21 experience you had on one of your first days as the principal at
22 Spring Branch Middle School that relates to this topic of
23 ethnicity. Would you share that with us?

1 4:09:29 24 A Yes. So Spring Branch was an actually diverse campus
25 because if you consider 9 percent Hispanic or 10 percent

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1 Hispanic, those are not actually real diverse campuses. There's
2 not a real diversity of students there ethnic wise or income.
3 Spring Branch Middle School, actually, is a fairly diverse
4 campus because of the way the boundary is drawn.

14:09:49 5 On my first week on the job, starting in September -- I'm a
6 first-time principal, and you can see the blue line that goes
7 through the Spring Branch Middle School zone. That's actually
8 I-10. It used to also have a series of railroad tracks, if you
9 remember the railroad tracks.

14:10:04 10 And I'm on the job -- maybe third or fourth day on the job,
11 and I receive a call from a gentleman who's a parent who says to
12 me, "You can solve everything at that school if you -- if you'll
13 just draw the boundaries at the railroad tracks."

14:10:17 14 **MR. HENRY:** I object to this testimony as hearsay from
15 a conversation of a person who's not present in the court.

14:10:22 16 **THE COURT:** I'll take that into consideration in
17 evaluating the weight to give it. Thank you.

14:10:26 18 **MR. HENRY:** Thank you.

14:10:27 19 **A** And I said, "You know sir, I just -- I just started as a new
20 principal. I don't really have that authority, but, you know,
21 my view of this campus is it's a great campus. The students we
22 have here are great students, and my job is to do the best job I
23 can for every student at this campus."

14:10:43 24 **BY MR. ABRAMS:**

14:10:43 25 **Q** Let's return to the map of the middle school enrollment

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1 zones, Plaintiff's Exhibit 104, please.

14:10:55 2 We've talked about the north/south orientation. There's a
3 portion of the Spring Branch Middle School enrollment zone on
4 the north side that is districted to the south side, correct?

14:11:05 5 **A** Correct.

14:11:07 6 **Q** We earlier looked at the map of the Memorial Villages.

14:11:10 7 Can you tell us what is largely the geographic scope of the
8 north side of the district being districted south to
9 Spring Branch Middle?

14:11:22 10 **A** Could you restate that?

14:11:24 11 **Q** Yeah.

14:11:24 12 What -- where are the Memorial Villages on the north side
13 of the freeway, and how do they correspond to the portion that's
14 districted south?

14:11:32 15 **A** So they're almost in that area where the Spring Branch
16 labeling is. They're kind of in -- essentially in that area.
17 You have Spring Valley, and then to the east side you have
18 Hilshire Valley -- Hilshire Village.

14:11:43 19 **Q** So the children in Spring Valley and Hilshire, which are
20 largely white communities, are districted south?

14:11:49 21 **A** They are, correct, and there's -- yes.

14:11:52 22 **Q** Let's look now at the district's map of high school
23 enrollment zones, Plaintiff's Exhibit 10.

14:12:00 24 Let's take a second to get oriented.

14:12:04 25 This map gives us the enrollment zones for high schools

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broken out, and we have color coding, correct?

A Correct.

Q So the red color coding is the Memorial High School enrollment zone, correct?

A Correct.

Q The maroon is the Northbrook High School zone; is that right?

A Correct.

Q What's the gold or yellow?

A The gold is Spring Woods High School, and then Stratford High School.

Q And we see the same pattern of certain portions north of 10 being districted south to Memorial High School, a largely white high school, rather than north to either Northbrook or Spring Woods, correct?

A Correct.

Q And then on the western portion of the district, similarly we have a portion north of the freeway districted south to Stratford, correct?

A That's correct.

Q Let's now look at the map of elementary school enrollment zones in the district, Plaintiff's Exhibit 11, please.

Are you familiar with this map published by the district back in 2021, which depicted the enrollment zones for the elementary schools?

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A Yes, I am.

THE REPORTER: I'm sorry. If you can get a little closer to the microphone.

MR. ABRAMS: Thank you.

BY MR. ABRAMS:

Q With regard to looking for the location of the enrollment zones -- pardon me, the enrollment -- with respect to finding the actual elementary campuses, those are the red dots, right?

A They are.

Q Each of these maps superimposes all the other campuses with dots. So it's a little busy, but if we want to know where the elementary schools are, we look for the red dots, right?

A Correct.

Q Directing your attention to the right side of Exhibit 11, I notice there's this green finger of enrollment on the north side of 10 that's districted south to Hunters Creek Elementary. Is that correct?

A Correct. Yes.

Q Is that, likewise, an area that is largely white as opposed to Hispanic that's going north to south?

A Yes. It is today.

Q And despite the proximity of that area to 115, which is an elementary school, or 106, which is an elementary school, those -- those children are districted in -- by virtue of what the school board has done down to Hunters Creek, 107, farther

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away?

A That's correct.

Q Okay. Let's now talk about whether or not there's segregation of school populations in the district.

THE COURT: I think this will be a good point to take a break. We'll take a 10-minute recess.

(Recess taken from 2:14 p.m. to 2:29 p.m.)

THE COURT: Be seated, please.

Mr. Abrams, you may continue.

MR. ABRAMS: Thank you, Your Honor.

BY MR. ABRAMS:

Q Dr. Klussmann, when we broke, we were beginning to discuss again the segregation of school populations within the campuses, and I'd like to look again at Plaintiff's Exhibit 105.

Do you have that before you?

A I do.

Q Are the racial and ethnic characteristics shown between the north and the south on Exhibit 105 similar to the racial and ethnic segregation that existed in the district when you were superintendent?

A They are.

Q Let's go back briefly to Plaintiff's Exhibit 107. Plaintiff's Exhibit 107 is a graphic that takes the district's data for the economically disadvantaged students.

Is that pattern of economic disadvantage between north and

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1 south the same or similar to when you were superintendent?

1 4 : 3 0 : 2 2 2 **A** It is.

1 4 : 3 0 : 2 3 3 **Q** And when you were superintendent, did you observe that there
4 were materially different parent resources available to the
5 children in the various schools?

1 4 : 3 0 : 3 2 6 **A** Significantly different resources that exist between the
7 schools south of the freeway and north of the freeway.

1 4 : 3 0 : 4 0 8 **Q** Is there a tradition in Spring Branch of having parental
9 support for schools through PTAs, where they exist?

1 4 : 3 0 : 4 7 10 **A** There are extreme support in some of the campuses,
11 significant financial support, and, obviously, just support in
12 general.

1 4 : 3 0 : 5 5 13 **Q** Do you have any recollection about the order of magnitude
14 we're talking about with regard to voluntary parental support
15 for some of the south side campuses through the PTAs through
16 their fundraisers?

1 4 : 3 1 : 0 6 17 **A** Yeah. So the -- my first exposure was when I was the
18 principal of Spring Branch Middle School and had seven
19 elementaries that fed into Spring Branch Middle School at the
20 time. And so just, you know, learning about what we were taking
21 in or -- or what the PTA was raising at Spring Branch Middle
22 School compared to what they were at the elementaries, it got --
23 you know, I dove fairly deeply into what the elementaries were
24 raising. And then over time -- it's just increased
25 significantly over time.

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1 The elementary schools in that Spring Branch Middle School
2 region easily raise -- raise six figures, you know, and now
3 getting into the high -- high aspects of those dollars. In
4 contrast -- my wife was the treasurer of the PTA at Northbrook
5 High School. They were trying to get a PTA going, and I think
6 they had 450-, \$500 in their account.

7 Q So materially different resources available to children
8 through their parents, north and south?

9 A Materially different resources available.

10 Q And those resources are used for enrichment, are they not?

11 A Well, you hope that they're used for enrichment. That's
12 what you would like them to be used for, but, you know, I think
13 in recent times, kind of the recent history of it is my
14 understanding is some of those resources are being used to
15 supplement positions that normally would be funded by the school
16 district.

17 Q Let's turn now to the second topic I indicated I wanted to
18 visit with you about: School performance, north and south. I'd
19 like to now direct your attention to Plaintiff's Exhibit 108.

20 This is derived from data on Plaintiff's Exhibit 26, the
21 TEA 2022 A to F accountability listing.

22 What is the TEA accountability rating system just very
23 generally?

24 A It's the state system of accountability taking testing
25 results and some other factors, but mainly STAAR testing

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1 results, end-of-course results, and attaching a letter grade to
2 it. This is a negotiated piece with the legislature maybe
3 ten years ago, and they really wanted to move to an A through F
4 system. Florida had that.

1 4 : 3 3 : 3 1 5 At the time, Jeb Bush, he came and spoke to the
6 legislature -- or to the committee, the Senate Education
7 Committee, and it was really a desire by the lawmakers to do an
8 A through F system. So they now grade campuses based on
9 different factors, and they assign a letter grade to that
10 campus.

1 4 : 3 3 : 4 8 11 Q Exhibit 108 has the heading "Student Achievement" as opposed
12 to a campus rating.

1 4 : 3 3 : 5 3 13 Is a student achievement level different from an overall
14 campus rating under the system?

1 4 : 3 4 : 0 0 15 A There is an overall campus rating. It depends on if you're
16 elementary, middle, or high school, how many factors, but
17 there's a, you know -- a kind of a debate today in education
18 between actual achievement, outright achievement, and growth of
19 student performance.

1 4 : 3 4 : 1 7 20 I would suspect what this slide means is, because it's
21 labeled "Student Achievement," it's looking at the factor -- the
22 letter grade assigned to the student achievement side, the
23 actual passing rate of students who are -- who are meeting the
24 state standard that they set at the state level.

1 4 : 3 4 : 3 5 25 Q There are a variety of grades of A, B, and C, but then there

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1 are also entries shown "not rated." What does "not rated" mean
2 within the TEA system at that time?

1 4 : 3 4 : 4 5 3 **A** So my understanding -- I think you said these were 2022
4 ratings?

1 4 : 3 4 : 5 0 5 **Q** Correct.

1 4 : 3 4 : 5 0 6 **A** My understanding is at the time, that the commissioner did
7 not want to continue -- or coming out of the pandemic, your
8 ratings also can affect -- your letter grade can affect whether
9 or not you have some sanctions that come along over time or --
10 it's called improvement required. And so, essentially, you
11 didn't -- he wanted to pause that a little bit.

1 4 : 3 5 : 1 4 12 So what happened is -- my understanding is if it says not
13 rated, that means that campus would either be a D or F.

1 4 : 3 5 : 2 2 14 **Q** So the fact that it's not rated is still some indication
15 about the student achievement performance based upon the state
16 testing, correct?

1 4 : 3 5 : 2 9 17 **A** Yes. It just means that it would have met the -- the
18 standard to assign it a D or an F at the time.

1 4 : 3 5 : 3 9 19 **Q** Every school shown on Exhibit 108 on the north side feeder
20 patterns is either a C or a not rated, correct?

1 4 : 3 5 : 4 8 21 **A** Correct. For that year.

1 4 : 3 5 : 4 9 22 **Q** And then with regard to the south side, there are several
23 schools in the feeder patterns that you earlier indicated are
24 actually on the north side, even though they're in a south side
25 feeder pattern. For example, looking at the Spring Branch

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1 Middle feeder pattern, Woodview Elementary is not rated, which
2 you described what that means.

1 4 : 3 6 : 0 9 3 Is Woodview a north side or a south side school?

1 4 : 3 6 : 1 3 4 **A** It's a north side elementary school.

1 4 : 3 6 : 1 4 5 **Q** Now, Valley Oaks with an A rating, actually was a north --
6 is a north side school, right?

1 4 : 3 6 : 1 7 7 **A** It is. Correct.

1 4 : 3 6 : 1 7 8 **Q** So that would have been the only A-rated elementary school
9 on the north side -- frankly, the only A-rated school, I think,
10 on the north side. Does that appear to be correct?

1 4 : 3 6 : 2 7 11 **A** That's what it -- that's what it looks like.

1 4 : 3 6 : 3 0 12 **Q** And then going to the left-hand side, the Spring Forest
13 Middle School feeder pattern, are either Sherwood or Thornwood
14 north side schools?

1 4 : 3 6 : 4 0 15 **A** Sherwood is. That's where our daughter went to elementary
16 school.

1 4 : 3 6 : 4 4 17 **Q** Okay. But as a general proposition, can you describe what
18 the pattern is of student achievement, which is the hard core
19 how-are-the-kids-doing grade that the TEA administers? What's
20 the pattern between north and south?

1 4 : 3 6 : 5 6 21 **A** Well, you can see that entire performance on the south side
22 of the district and greater -- greater academic challenges on
23 the north side of the challenge.

1 4 : 3 7 : 0 6 24 **Q** And is this similar to the pattern that existed when you
25 were superintendent?

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1 A It is. I think we had some scores that were a little higher
2 on the north side of the district, but the accountability system
3 in '22 was different than the accountability system in '15.

1 4 : 3 7 : 2 3 4 Q Do these school boundaries, north and south, then generally
5 reflect different ethnic and economic communities in the
6 district?

1 4 : 3 7 : 3 0 7 A Could you say that again?

1 4 : 3 7 : 3 1 8 Q Do these school boundaries shown on the north and south side
9 generally reflect different ethnic and economic communities
10 within the district?

1 4 : 3 7 : 4 0 11 A They do.

1 4 : 3 7 : 4 1 12 Q Let's go back to look at the proposed illustrative district
13 map, Exhibit 24.

1 4 : 3 7 : 5 0 14 Do you have that before you?

1 4 : 3 7 : 5 1 15 A I do.

1 4 : 3 7 : 5 3 16 Q Do the boundaries on Exhibit 24 generally, not perfectly,
17 track the middle school enrollment zones we've just been looking
18 at?

1 4 : 3 8 : 0 0 19 A Mostly, they do.

1 4 : 3 8 : 0 2 20 Q And with respect to proposed Illustrative District No. 1,
21 can you tell the judge whether or not the population of that
22 proposed district generally is of a common ethnicity?

1 4 : 3 8 : 1 4 23 A Yes, it is.

1 4 : 3 8 : 1 5 24 Q What is it?

1 4 : 3 8 : 1 6 25 A Mainly Hispanic.

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1 Q Can you tell Judge Lake whether or not the population in
2 proposed Illustrative District 1 generally shares a common
3 language?

1 4:38:25 4 A It does.

1 4:38:26 5 Q And what is that?

1 4:38:27 6 A Hispanic.

1 4:38:29 7 Q Similarly, can you tell Judge Lake whether or not the
8 communities in proposed District 1 generally share a common
9 culture?

1 4:38:36 10 A Yes, they do.

1 4:38:37 11 Q And what is that?

1 4:38:38 12 A Mainly Hispanic culture.

1 4:38:41 13 Q With respect to proposed Illustrative District No. 1, do the
14 residents in that district generally share common income levels?

1 4:38:49 15 A Yes, they do, in general.

1 4:38:51 16 Q And what's the factual basis for your knowledge about this
17 illustrative District 1?

1 4:38:55 18 A Working with the communities; looking at their percent of
19 free and reduced lunch for each campus; just knowing
20 particularly the impact of Pitner Road and the poverty that
21 exists on Pitner Road.

1 4:39:09 22 Q Now, let's turn to the third topic. I suggested we would
23 visit about governance issues. Now I'm talking specifically
24 about Spring Branch ISD governance.

1 4:39:20 25 How many trustees are on the school board in Spring Branch?

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1 A There's seven.

2 Q And how are they elected?

3 A They're elected at-large.

4 Q What does that mean?

5 A Means that even though they represent a place at -- like
6 Place 1, everyone in the district, the whole boundaries of the
7 district votes for everyone.

8 Q Could you describe the role of the board in ed- -- in
9 executing the educational plan for the district as opposed to
10 the role of the superintendent and staff?

11 A Well, the board has an intense role. They're the ultimate
12 leadership, ultimate decision-making body in the system. You
13 know, often sometimes superintendent positions get a -- get a
14 focal point because they're the CEO of the system, but at the
15 end of the day, nothing moves forward in a system unless the
16 board approves it, whether they approve it in policy or whether
17 they approve it in their budget or when they're selecting the
18 superintendent, which is a critical position of the board.

19 So the board is the ultimate decision-making body in the
20 school system.

21 Q With respect to your experience both as an educator and now
22 as a academic, do you believe there's any importance to racial
23 or ethnic diversity in educational leadership?

24 A I think there's a -- racial and ethnic leadership, but
25 particularly life experiences that -- and just the life

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1 experiences and understanding those life experiences to make
2 sure that policies being developed in the way that serves the
3 students the best and the community the best.

1 4 : 4 0 : 5 4 4 **Q** Can an individual trustee influence the decisions that a
5 superintendent and administrative staff make about the
6 operations of the district?

1 4 : 4 1 : 0 3 7 For example, we're talking about a proposed plan that
8 might, hypothetically, only involve one majority-minority
9 district, although there might be more. Can an individual
10 trustee make a difference?

1 4 : 4 1 : 1 5 11 **A** Oh, greatly.

1 4 : 4 1 : 1 6 12 **Q** How?

1 4 : 4 1 : 1 6 13 **A** Well, it's the only time in your life you have seven bosses,
14 and so you have seven equal bosses. And elected officials,
15 which I've been an elected official before -- elected officials
16 are duly elected the same across -- you know, they have the same
17 equal weight as individuals. They want to make sure they're
18 treated that way, too.

1 4 : 4 1 : 3 6 19 And so school board members have a -- a great influence on
20 decisions that superintendents and educational leaders are
21 making within their system.

1 4 : 4 1 : 4 6 22 **Q** Even though they may not comprise a majority of the board?

1 4 : 4 1 : 4 9 23 **A** Even though they may not comprise a majority, they should
24 act as -- a body corporate, you know. It's -- you need four
25 votes to move things forward, but when you're in a

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1 superintendent role, and you have seven bosses and seven votes
2 that are going to occur, and you're needing to take items to
3 them to approve, you have to pay attention to the desires and
4 the -- and the -- the guidance of each of those individual
5 members.

1 4 : 4 2 : 1 4 6 And so they each have an influence on you, on how you're
7 moving forward, how you're designing solutions to problems, the
8 initiatives that you're moving forward. They have a great
9 impact on what you're -- what you're going to do.

1 4 : 4 2 : 2 8 10 When I -- when I first became superintendent of
11 Spring Branch, we were in a crisis of leadership.
12 Superintendent was asked to leave. I was named interim
13 superintendent, and we really had to spend time to get the
14 system back in an operating function, and the board's critical
15 in that.

1 4 : 4 2 : 4 5 16 And their guidance on how you're going to do that and the
17 decisions you're going to make and the things you're going to
18 bring to them -- because superintendents just bring items to
19 them to consider. They have great influence on the decisions
20 you make and what you're able to feel comfortable in moving
21 forward and bringing forward in a public setting to get approval
22 on.

1 4 : 4 3 : 0 5 23 Q Are you familiar with the role that an individual trustee
24 can play concerning bringing about what turns out to be
25 differential treatment and resources or programming or staffing

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in the district even though it's a vote of one?

A Even though it's a vote of one, you can -- you can -- one person can greatly influence it. I'll give you a good example. One thing that districts really want to do, that they want to have a, you know -- a unanimous vote on is when they call a bond election. So individual board members can have great influence on what's in those bond packages and how the bond package approaches -- you see this across school districts across the state.

Because -- because you need -- you really want seven votes, you don't really want to take a bond package to the public on the split vote of the board. So you can have situations where -- where board members influence that. I saw that after I retired. I actually saw that happening in the 2017 bond.

I was -- couple board members reached out to me, the superintendent reached out to me, and in that case, you can see the results of some of those interactions that occurred, I mean, between the board and the superintendent. For example, four high schools -- traditional high schools, very good -- three of the four really strong drama programs, theater programs, producing students who go off to, you know, Broadway and are just very successful.

One of -- you know, a north side campus, Spring Woods High School, which has really, probably, the most -- the auditorium in most need, did not get an auditorium in the bond program, but

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1 Stratford High School, which has a great program, but Spring
2 Woods has a really solid program, got a brand new auditorium.

1 4 : 4 5 : 0 3 3 Q Spring Woods is located where, and Stratford is located
4 where?

1 4 : 4 5 : 0 6 5 A Spring Woods is located north of the freeway. Stratford's
6 located south of the freeway. I think you saw that occur.

1 4 : 4 5 : 1 2 7 You also saw an initial -- in the initial reports of
8 facility needs, you didn't see Memorial High School at the level
9 that eventually it was approved in the bond. You saw, like, a
10 new analysis done, and all of a sudden there -- the -- the
11 amount went to \$100 million to apply at Memorial High School.
12 You know, I thought that was really interesting at the time
13 because it was -- it was -- there was one analysis done, and
14 then a new analysis, kind of this updated amount.

1 4 : 4 5 : 4 5 15 So board members can greatly influence how those decisions
16 are made as you go through and you make those decisions. And,
17 you know, like Spring Woods High School, they had a young girl
18 who -- she played Tina Turner in London, you know. I mean,
19 these are incredible programs, and that group -- that theater
20 group, at a very high-poverty campus that needs great programs
21 for kids to be exposed to, is sitting without a new auditorium
22 whereas really, the other three schools -- even Northbrook High
23 School, it's an older auditorium, but in much better shape than
24 Spring Woods High School.

1 4 : 4 6 : 2 2 25 So it can greatly influence, and superintendents across the

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state have to manage that when they're putting bond packages together.

Q I want to turn now to the subject of public discussion in a board meeting and what's called executive session discussions, all right, sir?

A Yes.

Can I mention one thing I forgot to mention?

Q Yes, sir.

A I think, if you look at the history -- I've done this with my classes. I have them look, in their districts, at the history of bond issues. I think you would probably see a stark difference. I saw this when I was looking at the history of bonds before we did 2017. I only did one bond in my 11 years.

But I think if you look at the resources allocated, particularly to the high schools, I think you would see a significant difference in resources allocated between the north side and the south side schools. And I think you would see that historically over time, not only present day and what I mentioned in 2017, but you would see that over time.

MR. HENRY: Your Honor, I object because I think he's testifying about numbers, facts, figures that are discernible, and that would be hearsay. But we don't have a proper foundation laid. We're not looking at those documents and those numbers.

THE COURT: I'll take your objection -- objection's

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overruled. I'll consider that in determining the weight.

Go ahead.

MR. HENRY: Thank you.

BY MR. ABRAMS:

Q Dr. Klussmann, you made mention anecdotally about circumstances between Spring Woods on the north and Stratford on the south, and you mentioned Memorial on the south.

As a general proposition, where -- what high school enrollment zones, as a general proposition, have all of the trustees in the school district, during recent past, had their students go through?

A Well, it's been -- it's -- there's been some patterns over time, but I think the current pattern is Memorial High School has the majority -- or the highest number of trustees in that area.

Q And with regard to the remainder of the trustees, realizing that from time to time there's someone from Spring Woods on the board, are the remainder of the trustees generally Stratford? It's Memorial and Stratford enrollment zone parents who have served on the school board?

A It's been over a majority, most of the time. There have been -- when I came to the district in '96, you had two or three members that were -- lived north of the freeway, but over time it really has been -- in my time in the district it's been mainly Stratford and Memorial.

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1 14:48:38 Q Now, returning to this subject of the difference between
2 public discussion and executive session discussions, I believe
3 you indicated you've actually been an elected official in the
4 past. What was that?

1 14:48:47 A I was a city council member in the city of Jersey Village.

1 14:48:51 Q All right. In that capacity and as superintendent, did you
7 become familiar about the difference between discussions that
8 the school board conducts or public bodies conduct in public as
9 opposed to executive session?

1 14:49:02 A Yes.

1 14:49:03 Q What's an executive session?

1 14:49:04 A So executive session's allowed by law. There's six or seven
13 factors, I think, or eight factors that allow individuals to --
14 or boards to go into executive session, and they're typically
15 discussing sensitive matters. So it could be -- a personnel
16 matter could be sensitive. Could be -- the purchase or sale of
17 property could be sensitive; to consult with your attorney.
18 Lawsuits -- to, you know, discuss lawsuits and those strategies.

1 14:49:31 So, you know, there are specific areas that you can go into
20 executive session.

1 14:49:37 Q Are budgetary matters, matters that are occasionally
22 discussed in executive session?

1 14:49:44 A Well, they really shouldn't be. Budgetary matters,
24 contracts, things should not be discussed in executive session
25 unless there is an issue that fits into one of those other

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categories. It could be personnel. So if you're cutting personnel, you want to talk about individual positions, people, you should do that in executive session. It's a sensitive matter.

But budget discussions in general should be in front of the public in the open session.

Q Is having a voice at the table in an executive session important?

A Extremely important because typically, in most cases, you're going to come out and maybe make some decision. There's going to be a vote of the board. So -- excuse me. So if, you know -- depending on the conversation in the back, sometimes things aren't -- aren't -- you know, the superintendent may make a recommendation, but depending on the conversation that's occurring in the back, the board may not be trending in that recommendation or may be reforming a recommendation or a decision.

They can't make a decision in the back, but they can have a discussion about it. It can be -- become obvious maybe they're not going to go with the recommendation, and they're going to come out and make a different motion or vote a different way. So it's a very important piece that leads to, sometimes right after those sessions, very important decisions.

Q Are you aware of recent decisions by the Spring Branch ISD board to close certain schools as part of a program to cut the

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district's budget in light of issues with state funding?

A I am -- am aware of those items.

MR. ABRAMS: Let's look at Plaintiff's Exhibit 139, please.

BY MR. ABRAMS:

Q Plaintiff's Exhibit 139 depicts a variety of programs.

Are you aware that this depicts the schools and academic programs through the SKY program that were closed by a vote of the school board last year?

A Yes. Three of those campuses that are depicted here were part of something called the SKY Partnership.

Q You earlier talked about the SKY Partnership. Would you just refresh our recollection about what that consists of?

A Yes. So there was a provision in the law that allowed for a program charter, and to try -- we had very two -- we had two very successful charter schools in the district run by the district, and my thought was -- at those two campuses, Cornerstone and Westchester, we had 250-plus families on wait lists, and they were at campuses that we had closed years ago; had not really, at that time, upgraded those campuses very much, but we had very successful programs.

And I thought to myself if we did that same thing in -- in this very impoverished area where we were, at times, losing kids to staying in their neighborhood school, would they then stay in their neighborhood school? So we formed a partnership with KIPP

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public schools, charter school network, YES Prep public school, two very well-known high-performing charter school networks, and they came in to Northbrook Middle School, Landrum Middle School, and Northbrook High School and ran a school-within-a-school program, first of its kind in the state of Texas, and it -- we -- you know, the goals of that program were to increase the -- the enrollment at those campuses.

Obviously, it didn't improve performance over time. We had the T-2-4 goal to get more kids into higher ed. KIPP and YES Prep had a very good track record of taking low-income students and getting them successfully in and through higher education.

So it was a natural partnership, and we formed that partnership at those three campuses.

Q With reference to Exhibit 139, if we look at the key in the lower left-hand corner, the red Xs depict school closures that the board of trustees decided in the last year. Those are which campuses?

A Treasure Forest Elementary School, Panda Path, and then -- which is a -- was a early childhood campus, and Spring Shadows Elementary.

Q And with respect to the school closures, are the school closures at Panda Path and Treasure Forest within the proposed Illustrative District 1?

A Yes, I believe they are.

Q And then you mentioned the SKY partnership.

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1 The district board also eliminated the SKY partnership,
2 correct?

1 4 : 5 4 : 2 0 3 **A** Yes, they did.

1 4 : 5 4 : 2 1 4 **Q** And the SKY partnership, according to the key, is
5 represented by the little yellow circle with the dash through
6 it.

1 4 : 5 4 : 2 7 7 Those schools weren't closed, but the SKY program at those
8 schools was terminated, correct?

1 4 : 5 4 : 3 2 9 **A** Yes. There was a contract, and that contract was terminated
10 to not provide that program anymore on those campuses.

1 4 : 5 4 : 3 9 11 **Q** And with respect to the children that went through the SKY
12 partnership, Treasure Forest, Panda Path, Landrum Middle and the
13 like, are those children whose parents resided in District 1 for
14 the most part?

1 4 : 5 4 : 5 3 15 **A** Yes.

1 4 : 5 4 : 5 7 16 **Q** All right. Now let's look at topic four, the electoral
17 system.

1 4 : 5 5 : 0 2 18 At one point in your work with Spring Branch, were you
19 responsible for helping to oversee elections?

1 4 : 5 5 : 0 8 20 **A** I was. When I was the assistant superintendent for finance
21 and operations, that fell within the division that I led.

1 4 : 5 5 : 1 6 22 **Q** I want to talk to you about what the voting locations and
23 the polling sites were when you began with the district.

1 4 : 5 5 : 2 3 24 One time, polling locations were located where?

1 4 : 5 5 : 2 5 25 **A** They were at elementary schools.

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Q Let's look at Plaintiff's Exhibit 11, please, again.

So you earlier told us the red dots are the elementary schools.

So on Election Day, when polling was at the elementary schools, people would go to their closest elementary school, correct?

A Correct.

Q And there were how many elementary school polling locations?

A I think 25 or 26.

Q Now, at one point in time in 2012, the district changed the number and location of its Election Day voting --

A We did.

Q -- sites.

Why?

A Well, the state had come to us -- you had the changes in election law. The state had come to -- or the county had come to us, who we rented our machines from, we would get our machines from, and they indicated that they may not be able to meet our -- our demand for those machines at the time when we'd have our election.

Typically, in Spring Branch, they had their board elections in May, not November, and, also, you could call a bond election at some time. So they indicated to us that we could not -- unless we moved to November, we couldn't necessarily rely on having them available to us. So we, at the time, looked at, you

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1 know, it may be time to purchase our own equipment.

1 4 : 5 6 : 4 9 2 Also, it was becoming increasingly harder to staff 25,
3 26 polling locations, and they were polling locations. And so
4 we were concerned about that at the time, also. So there was
5 a -- some conversation went on, and we decided to move to middle
6 school attendance zones and conduct our own elections with our
7 own equipment.

1 4 : 5 7 : 1 3 8 Q And the consequence of voting on Election Day at middle
9 schools rather than elementary schools was what as far as the
10 number of voting locations?

1 4 : 5 7 : 2 5 11 A We went from, I guess, 25 or 26, to seven on Election Day.

1 4 : 5 7 : 3 0 12 Q Do you recall anyone on the school board talking about the
13 impact that reducing the number of voting locations would have
14 on the access to voting sites by members of the Latino or
15 Hispanic community?

1 4 : 5 7 : 4 5 16 A I do think -- I think, in general, there was some
17 conversation because you're going to fewer places, so longer
18 travel. There was some conversation about that. I think we
19 increased the early voting. We used to only have it at the ad
20 building, so I think we increased that a little bit.

1 4 : 5 8 : 0 2 21 So there was some conversation, but I feel like the
22 majority of time our decision-making at the time -- my
23 recommendation, the decision-making of the board at the time was
24 really around the financial implications of it.

1 4 : 5 8 : 1 5 25 Q Did anyone analyze the impact of changing the number of

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1 voting locations dramatically from 25 to seven would have on
2 access to voting?

1 4 : 5 8 : 2 4 3 **A** I don't recall any statistical analysis other than just, in
4 general conversation, what would this do. If we -- you know,
5 would it make it harder for people? Would it affect the turnout
6 that we had within the system?

1 4 : 5 8 : 3 7 7 **Q** Was there ever any analysis of what impact that change had
8 on voting?

1 4 : 5 8 : 4 1 9 **A** I don't recall. I mean, we had to file for preclearance,
10 but I think that was -- I don't recall a large analysis as part
11 of that filing.

1 4 : 5 8 : 4 9 12 **Q** Let's now turn from Election Day voting to early voting, all
13 right, sir?

1 4 : 5 8 : 5 5 14 **A** Sure.

1 4 : 5 8 : 5 5 15 **Q** Let's look at Plaintiff's Exhibit 110.

1 4 : 5 9 : 0 1 16 Exhibit 110 is taken from Plaintiff's Exhibit 12, and it
17 maps the sites of the early voting locations in the school
18 district before the May '22 election when the district added
19 another site.

1 4 : 5 9 : 1 4 20 Are you familiar with the locations that the district
21 adopted for early voting when it went away from the 25
22 elementary schools to seven middle schools?

1 4 : 5 9 : 2 5 23 **A** Yes. This looks familiar.

1 4 : 5 9 : 2 6 24 **Q** And I think you told us that at one point, before that
25 change was made, there was only one early voting location, and

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that was at the ad building?

A That's what I recall. In the early days, the ad building had an early voting location.

Q And although it's not labeled that way, is the Spring Branch administration building the site located at 955 Campbell on Exhibit --

A That's correct.

Q -- on this Exhibit 10 -- 110?

A That's correct.

Q So when all the elementary school Election Day locations were eliminated as voting locations, and the district increased its early voting locations, do you agree that none of the early voting locations were located in the area that would be covered by proposed District No. 1, the Northbrook Middle, Landrum Middle zone?

A That's correct.

Q Three of the four locations were south of I-10 in the Spring Forest, Piney Point, and heart of the -- I guess that's either Bunker Hill or Hunters Creek by the ad building?

A Yes. The Woodview [sic] locations, because it was a joint election with one of the villages. And so I think that's their city hall location.

Q And then the Westview location, it's north of 10, but do you recall we earlier looked at the location of Hilshire Village?

Was the only northern early voting location the district

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adopted within the village of Hilshire Village?

A I believe so. I believe that corner of the property -- that corner of the -- between Wirt and Westview is in Hilshire Village.

Q And having looked back at the demographics, do you agree with me that every early voting location that the district established before May of 2022 was located within an area that was a majority white area?

A I would -- I think so. Yes, I think it -- Hilshire would definitely probably be that way, and -- during my time, and also Dairy Ashford and the ad building.

Q Was any minority or person of color elected to the board of trustees during the period of time you served as an employee of the district from 1996 to 2015?

A Not that I know of, no.

Q Now, the records reflect that there was one trustee named Chris Gonzalez before this lawsuit was filed who was elected to the school board.

Was and is Ms. Gonzalez Hispanic or Latino?

A Not to my understanding, she's not.

Q Have the patterns of voting in Spring Branch for the trustees changed over time? At one time, we talked about the fact there were 25 Election Day voting locations and one early voting location, and now it's moved to seven Election Day voting locations and, at least as of May '22 -- before May of 2022,

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four early voting locations.

Has the ratio of Election Day to early voting changed over time?

A During my time, it was changing significantly where early voting was increasing greatly as a percentage because of changes in the law around early voting, and so it was increasing drastically.

And I do remember, like in the bond program in 2007, looking at the early numbers and realizing that it would be very hard on Election Day to catch up to the lead that we had, doing that analysis when those early -- early votes first came out.

Q Is it, then, the case that the role of early voting has changed and increased dramatically in the results of Spring Branch trustee elections since this change was made in the voting locations?

A I believe so.

Q All right. Now I want to turn to the fifth topic I told you we'd visit about, the question of at-large versus single-member election methods.

From your work as a consultant, as well as your prior work as a superintendent, are you generally familiar with districts that use the single-member district mechanism?

A I am.

Q Do you have an opinion generally about how at-large versus single-member structures affect board governance?

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15:03:39 1 **A** Well, in working directly with -- in working directly with
2 the districts where I've presented to boards or had board
3 interaction, I haven't sensed any difference from that
4 standpoint of working with them directly. The questions they
5 ask, their engagement in the -- in the conversation, I haven't
6 noticed that it's any -- any different from a governance
7 standpoint as far as the way they interact with me or ask me
8 questions.

15:04:10 9 **Q** Do you agree that Spring Branch is a majority-minority
10 district as far as its student population is concerned?

15:04:18 11 **A** Definitely.

15:04:19 12 **Q** Do you have an opinion about the board's role in overseeing
13 the education of children with backgrounds with whom they share
14 little culturally or economically?

15:04:28 15 **A** Well, I think, just in my own experience, it's hard --
16 again, when you think that you are there for every kid, but then
17 you learn and you -- and those kids are in your home, and you
18 learn completely different perspectives than you thought you
19 had, even though you're trying to do the right thing for every
20 kid, I think it's very hard without having that life experience
21 at the table.

15:04:49 22 A good example would be the -- the -- you know, the voting
23 locations. I was looking at purely from a financial standpoint
24 how we were going to conduct these elections; how would we staff
25 25, 26 places; the cost of doing the election if we went to our

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own equipment, you know. Not having someone at the table who may have said, "Hey, time out, you know. This is how it will affect my community," I think definitely affects you not having -- having that. And I was a person who thought I was there for every kid, but probably, in that decision, I was -- I was not looking at every factor.

15:05:27 Q Based upon your many experiences in Spring Branch, including your years of dealing with an elected board of trustees, with residents, with students, do you have a view about whether it would be beneficial or detrimental to the district to elect trustees from single-member districts?

15:05:45 A Well, I think, over time, my view had always been that kind of a hybrid-type system, like the city of Houston has, would be the type of system that works best where you have some individuals looking at the system as a whole, and you have some individuals looking at specific geographic areas of the system.

15:06:05 However, in Spring Branch's case, because it is -- we saw such diversity, such -- such difference with the economic levels, the ethnicity, you know, 90 percent-plus Hispanic, poverty, you know, that -- that unless you do a single-member district, you're not going to get that level of representation because there's such differences across the district.

15:06:31 Now, I think that, you know -- now, from my perspective having been in that role in the district and still working with students in that -- in the district, I think, unless you have

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1 the opportunity for -- for individuals with those life
2 experiences to sit on a board and influence policy, you just
3 won't represent -- you won't have the policies in place that
4 really do the best for the kids in that situation.

15:06:58 5 You know, I think of three -- three students that I know in
6 that situation. So Rafael (phonetic) from Spring Woods High
7 School loses his dad his senior year. There are three other
8 kids in the house, three daughters -- three sisters. The mom is
9 left to raise four kids by herself, high-poverty family. She --
10 there's a two-year-old and two, I think, siblings in middle
11 school.

15:07:29 12 Rafael has a full ride to John Hopkins, but doesn't have
13 the ability to get there, you know; doesn't have the ability to
14 even -- isn't even able to visit John Hopkins before he first
15 goes there, you know. Just that life experience I would just
16 have no relationship to without knowing Rafael and being in that
17 experience.

15:07:50 18 Isaiah (phonetic), who's from a high-poverty family, single
19 mom, and gets a full ride to Michigan because he has an
20 incredible voice, but he has no way of getting there and has to
21 go there by himself on his first day ever -- gets on a plane not
22 with anyone, lands, and has to go to another state.

15:08:15 23 I remember we talked to him, and he didn't even have a
24 jacket, and if anybody knows Michigan weather, you want to make
25 sure you have a jacket in the wintertime. Understanding and

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1 having someone at the table with that life experience in a
2 district that's 58 percent low income I think is incredible.

15:08:31 3 I keep, in my jacket at the house, too, in my room -- in
4 our closet, Miguel, this is his funeral notice because he passed
5 away from leukemia and had no ability to get the type of care
6 that my own children would get or that the children in the
7 district would get. I think, unless someone with those life
8 experiences or someone who lives in those communities and
9 understands those life experiences are at the table -- I think I
10 would have made much better decisions as a leader if I would
11 have had that individual at the table, even just one, who's
12 pushing my thinking.

15:09:07 13 I think any time we have a diversity of thought we make
14 much better decisions, and I just think that -- that at this
15 time, in Spring Branch, that a single-member district is what
16 would be able to provide the decision-making and the influence
17 of decision-making that affects students like Rafael, Isaiah,
18 and Miguel.

15:09:30 19 **Q** Thank you.

15:09:31 20 One last topic as a result of the opening. You heard
21 counsel for the district talk about some statutory procedure
22 that exists in Texas?

15:09:40 23 **A** I did hear that earlier.

15:09:42 24 **Q** And you've indicated to me you are familiar with that
25 procedure.

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15:09:45 1 **A** I am. One of the courses I teach is school law. So we deal
2 with the state statutes, to some degree, and I have some
3 familiarity with that statute.

15:09:54 4 **Q** What's your -- what is your understanding, based upon your
5 training and your teaching, about how that statute works and
6 whether you think that is or isn't a viable substitute for
7 Judge Lake deciding whether to implement a single-member plan
8 for the district?

15:10:10 9 **MR. HENRY:** Your Honor, I think that -- I object to
10 that question. I think it calls for a legal conclusion from the
11 witness.

15:10:16 12 **THE COURT:** You can talk about your experience with
13 it, if you can --

15:10:22 14 **MR. ABRAMS:** Yeah. I'll rephrase the question.

15:10:23 15 **BY MR. ABRAMS:**

15:10:24 16 **Q** You're not a lawyer, and I'm not asking you for a legal
17 opinion --

15:10:27 18 **A** Yes, sir.

15:10:28 19 **Q** -- Dr. Klussmann.

15:10:30 20 Do you have any experience with whether or not that statute
21 has, in fact, ever been implemented successfully in the state of
22 Texas?

15:10:37 23 **A** I'm not so sure that that statute's ever actually been -- or
24 anyone has used the statute and been successful through the
25 process. I know Dallas ISD, several years ago, went through the

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1 process, but I don't think it ever went to the full aspect of
2 it. It's always been viewed from a -- from an educational
3 leadership standpoint as a very high threshold, a very difficult
4 way to create a district or to get a -- the charter authority to
5 have this district within a school district.

15:11:06 6 So it's really just been a very high threshold that I'm not
7 familiar with anyone who's actually been successful going
8 through that process. It -- it's a process where you go for a
9 petition, and if you have enough signatures and they're
10 presented to the board, but the board itself still appoints
11 the -- the committee or task force, the charter group that puts
12 the charter together.

15:11:31 13 The board can approve that charter, not the board --
14 there's still complete control, to some degree, when you read
15 the statute on the board that's in place at the time.

15:11:40 16 Q And the bottom line is, if I understand your explanation, if
17 you go through that process -- and no one has completed it --
18 there would then be an at-large election of the populous as a
19 whole to decide whether or not to convert to an at-large
20 system -- to a single-member program?

15:11:56 21 A Or to a -- to allow this charter district to be developed.
22 That's my understanding.

15:12:01 23 Q Okay. So that to the extent there are deficiencies in the
24 at-large electoral process in the district with respect to
25 electing trustees, whatever those deficiencies may be would

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1 apply equally to trying to invoke that statute. Is that your
2 understanding?

15:12:18 3 **A** Potentially, yes.

15:12:19 4 **MR. ABRAMS:** Pass the witness, Your Honor.

15:12:20 5 **THE COURT:** All right. You may proceed.

15:12:26 6 **MR. HENRY:** Your Honor, would it be okay if I question
7 from the podium since I'm so far away?

15:12:33 8 **THE COURT:** Sure. Sure.

15:12:35 9 **MR. HENRY:** Thank you.

CROSS-EXAMINATION

15:12:37 11 **BY MR. HENRY:**

15:12:49 12 **Q** Thank you, Dr. Klussmann.

15:12:50 13 Am I saying your name right, Klussmann?

15:12:52 14 **A** Yes, perfect. It's good.

15:12:55 15 **Q** Terrific.

15:12:56 16 When you were the superintendent of SBISD, did you live
17 inside of the district?

15:13:00 18 **A** No, we did not.

15:13:01 19 **Q** Have you ever lived inside of SBISD?

15:13:04 20 **A** I don't. We own property in the district, though.

15:13:06 21 **Q** Is that rental property?

15:13:09 22 **A** Our son lives in it.

15:13:10 23 **Q** Okay. But your students -- your children attended SBISD
24 schools as students, correct?

15:13:17 25 **A** They did.

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Q And you stated that one, your oldest, went to Northbrook;
your middle went to Stratford; and your youngest to Spring
Woods; is that accurate?

A Yes. She went to several campuses, but Spring Woods High
School is a high school.

Q And did you have the option to select which schools your
children would attend since you lived outside of the district?

A Well, what I did is I used whatever the current policy that
was in place, and I have to -- I had to live within that policy.
So I was treated as any other employee who would bring their
children into the district. I was treated in the same manner as
anyone else.

Q And those schools that your children attended were schools
north of I-10; is that correct?

A Well, our son went to Stratford. That's south.

And when Caroline went for one year to Westchester, that's
south of the freeway.

Q Okay. And the others were all north?

A They are.

Q Okay. You talked a little bit about the T-2-4 program and
that you were superintendent of SBISD when that was launched.

Is it your testimony that that program had a positive
impact on SBISD students?

A Well, it was a -- it was a goal. So I think it had a
positive impact that that's what we were shooting for. It

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1 wasn't a program, but it was a goal that we were shooting for.

15:14:31 2 Q And how did the district go about attempting to achieve that
3 goal under your leadership?

15:14:37 4 A We did a couple of things. We had five kind of critical
5 measures we looked at: Percentage of students taking the SAT;
6 SAT performance; graduation rates. Obviously, you have to get
7 kids into that -- they need to graduate; students who were
8 academically prepared. We looked at several factors to make
9 sure that they were prepared to go, you know -- to try to
10 increase that number.

15:14:58 11 Q And did that program target all students in the district or
12 just students from a particular high school or feeder pattern or
13 demographic background?

15:15:12 14 A It was a district -- it wasn't a program. It was a
15 district-wide goal.

15:15:14 16 Q Okay. And then I asked about the different means of
17 achieving the goal, and that's what I was referring to as a
18 program.

15:15:19 19 So those means of achieving that goal, were those
20 implemented at -- across the district, district wide, or were
21 those reserved for specific campuses?

15:15:29 22 A They were district wide.

15:15:32 23 Q And earlier you testified that that program has become a
24 model for the state. Can you expand upon that testimony?

15:15:40 25 A Yes. I'm not going to call it a program because it's just

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1 not a program. It was a goal that we were shooting for, and the
2 state, and now in their factors -- one of the factors in their
3 accountability system is CCMR -- or they changed the
4 designation, but college career military readiness. And if you
5 look at what they put into place, it's -- it mirrors what we
6 were focused on at the time.

15:16:03 7 **Q** In your experience at SBISD, you know, you testified about
8 some of the life experiences that were different for your
9 students that were north of I-10 versus those south of I-10.

15:16:15 10 Was it your experience that those south of I-10 often grew
11 up in families that already had a plan for them to attend
12 college or be workplace or military ready when they graduated?

15:16:26 13 **A** Well, I wouldn't say necessarily a plan. I would say that
14 they had resources, just as we have as a family, to provide them
15 opportunities to help that situation.

15:16:35 16 For instance, you know, we would never in -- no one on --
17 in -- you know, who has any means would ever put their child on
18 a plane to go to a university thousands of miles away and -- and
19 just put them on a plane and hope everything goes okay.

15:16:51 20 **Q** Right.

15:16:51 21 And so I guess my question is: Since SBISD had this goal
22 for all students across the entire district, they must have --
23 the district must have, you know, intensified its efforts at
24 those campuses where students would ordinarily not have those
25 built-in resources?

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1 5 : 1 7 : 1 4 1 **A** Well, definitely. I mean, you look at your data, and you
2 try to address those -- those areas, but we tried to always do
3 things within an equitable manner across the system. We
4 wouldn't provide one program at one site and not another site.
5 So we had something called Collegiate Challenge, and we may have
6 more volunteers at a site that needed more volunteers because
7 more kids needed that resource or that assistance, but we tried
8 to -- to approach the system as a whole as far as not providing
9 one student opportunities, and another student not getting that
10 opportunity.

1 5 : 1 7 : 4 9 11 **Q** And I understand that SBISD is a district that gives
12 students and parents a lot of choice about what campuses their
13 students attend and what programs their students want to be
14 involved in. Is that correct?

1 5 : 1 8 : 0 2 15 **A** Compared to other districts, yes.

1 5 : 1 8 : 0 4 16 **Q** Can you talk a little bit about how, during your time as
17 superintendent, SBISD implemented different choice opportunities
18 for parents and students?

1 5 : 1 8 : 1 4 19 **A** Yeah. So we did a couple of things to try to improve that.
20 Luckily, before I ever came to Spring Branch, they provided
21 intradistrict transfers within their system. If campuses had an
22 open slot, then a parent could put in for a transfer. You had
23 to provide your own transportation, but could put in for a
24 transfer.

1 5 : 1 8 : 3 2 25 We improved that system, kind of -- when I came to the

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1 district in '96, principals could kind of decide to close their
2 campus and say their campus was not accepting transfers. We
3 didn't feel like that was equitable because you may -- your
4 campus overall may have a certain number of students, but in
5 elementary, it's very dependent on grade levels.

1 5 : 1 8 : 5 4 6 So you may have four slots open in third grade that you
7 could fill, and we could be more efficient as a system. So we
8 started actually publicizing every campus and every grade level
9 to allow individuals to have access, that there was an opening
10 there. So we felt like that created an opportunity across the
11 system for more individuals to transfer to more campuses over
12 time. I think there were 1500-plus students at some degree on
13 some type of intradistrict transfer.

1 5 : 1 9 : 2 2 14 We also, during -- maybe it was when I was associate -- or
15 assistant superintendent for finance and operations, we opened
16 the district to outside transfers, intradistrict who could come
17 outside, beyond transfers of employees. So trying to -- and
18 that was mainly during our Robin Hood years to try and increase
19 our employment -- or enrollment so we could have less kids -- or
20 less dollars being sent back to the state.

1 5 : 1 9 : 5 2 21 So there were different opportunities that we did. We also
22 had choice campuses -- Cornerstone, Westchester -- that had been
23 developed. Three dual bilingual programs had been developed.
24 Eventually, a middle school; a highly gifted. So we went to a
25 unified enrollment system to give more individuals opportunity

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1 to be able to access those programs.

15:20:13 2 Q When you were discussing transfers from other -- students
3 from other districts into SBISD, do you know what other
4 districts students were generally coming from?

15:20:25 5 A I would have to look at the analysis. I haven't looked at
6 that in a long time.

15:20:28 7 Q Okay. And you testified just now about dual language
8 programs. Can you explain for the Court what that is?

15:20:33 9 A Well, a true dual language program, the ones that we were
10 running, is when you take 50 percent Spanish speakers and
11 50 percent English speakers, and you put them in the same
12 classroom. And so students are learning both languages as they
13 go through the program.

15:20:49 14 So we had what we call two-way dual language, which is at
15 three campuses, school-within-a-school programs -- choice
16 programs. We also -- our bilingual model at the time was called
17 one-way dual language, but it was just for bilingual students
18 who are mainly in a Spanish-speaking class.

15:21:08 19 Q Were those programs -- was that program primarily
20 established to assist students who were not fluent in English,
21 maybe newcomers to the country, with getting proficient in
22 English so that they could, you know, succeed in SBISD schools?

15:21:23 23 A The two-way dual language?

15:21:24 24 Q No, the bilingual program that you --

15:21:26 25 A Well, the bilingual program's required by law, yes.

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1 Q Okay. And that's the goal of it, right?

2 A It's to -- well, our district goes by literacy so that they
3 developed strong Spanish -- continued to developed strong
4 Spanish and they developed English skills.

5 Q During your tenure as superintendent, did SBISD offer
6 pre-kindergarten programs?

7 A It did. It started doing that full-day pre-K before I
8 became superintendent.

9 Q At the time, was pre-K mandated by the state?

10 A No, I don't believe so at that time.

11 Q And was pre-K -- was full day pre-K funded by the state?

12 A Well, at the beginning, full day pre-K -- you receive
13 funding for half your day, and you could go for a grant for the
14 other half. And so for many years, Spring Branch actually had
15 full funding for full-day pre-K for eligible students, but
16 eventually that grant went away.

17 Q And did SBISD continue to provide full-day pre-K even after
18 that grant --

19 A I think even to this day, yes.

20 Q During your time as a superintendent, you testified that
21 SBISD passed -- the voters passed a bond in 2007; is that
22 correct?

23 A Yes.

24 Q Okay. And during that use of the bond funds, is it accurate
25 that SBISD renovated 13 different elementary schools?

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A It did.

Q So I'm going to go through each one here that I have on my list.

A Can I correct you on something?

Q Yes.

A Technically, we renovated all elementary schools. We replaced 13 elementary schools.

Q Replaced 13 elementaries. Okay. Great.

Housman Elementary School, is that school north or south of I-10.

A North.

Q How about Ridgecrest Elementary?

A North.

Q Pine Shadows?

A North.

Q Valley Oaks?

A North.

Q Hollibrook?

A North.

Q Shadow Oaks?

A North.

Q Edgewood?

A North.

Q And Westwood?

A North.

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1 Q So that's one, two, three, four, five, six, seven, eight --
2 eight elementary schools that I listed off.

3 What about Spring Branch Elementary School?

4 A That's north of the freeway, also.

5 Q Okay. So that's nine.

6 And were those nine completely replaced for the 2007 bond?

7 A They were.

8 Q So nine of the 13 that received complete replacements
9 pursuant to the 2007 bond were north of the freeway, correct?

10 A Yes. It was the most equitable bond program probably in the
11 history of the district.

12 **THE COURT:** I think we're going to stop for the day.
13 We'll finish tomorrow morning.

14 Have a seat.

15 There were some questions earlier about our schedule.
16 We're going to meet tomorrow and Wednesday. If necessary, we
17 can meet Thursday morning and Friday morning. Everybody clear
18 on that?

19 **MR. ABRAMS:** Yes, Your Honor.

20 **THE COURT:** Okay. Are there any questions?

21 **MR. CRAWFORD:** So we may have been under a -- we were
22 under the understanding that we would not be meeting on Thursday
23 or Friday because of the Court's criminal schedule. Are we --

24 **THE COURT:** I moved my -- because there was a
25 confusion about whether we were going to be meeting in the

1 morning, which we are Tuesday and Wednesday. If we need to, we
2 can meet Thursday morning and Friday morning. That's why I'm
3 clarifying that now. So we don't have to carry over to next
4 week.

15:25:09 5 **MR. ABRAMS:** And is -- when you say meet in the
6 morning, that's for a full day, if necessary?

15:25:13 7 **THE COURT:** No.

15:25:14 8 **MR. ABRAMS:** Just the morning?

15:25:15 9 **THE COURT:** Just the morning.

15:25:17 10 **MR. ABRAMS:** Okay. That's what I wanted to define.

15:25:19 11 **THE COURT:** Morning is defined as 8:30 to 11:30,
12 approximately.

15:25:23 13 **MR. ABRAMS:** So we'll be full day tomorrow; full day
14 Wednesday; 8:30 to 11:30 Thursday and Friday.

15:25:29 15 **THE COURT:** Yeah, but full days depending upon my
16 ability to digest a huge amount of information.

15:25:35 17 **MR. ABRAMS:** We understand that you set the
18 definition, but I just was trying to make sure.

15:25:38 19 **THE COURT:** No. I'm trying to pay attention, but, you
20 know, you all have been with -- handling these facts for years,
21 and I'm doing my best to understand them.

15:25:47 22 So I'll see you tomorrow morning at 8:30.

15:25:49 23 **MR. ABRAMS:** Thank you, Your Honor.

15:25:50 24 **THE COURT:** Thank you.

15:25:51 25 *(Evening recess taken at 3:25 p.m.)*

-o0o-

I certify that the foregoing is a correct transcript
from the record of proceedings in the above matter.

Date: September 15, 2024

/s/Heather Alcaraz
Signature of Court Reporter

<p>MR. ABRAMS: [56] 4/8 4/22 5/6 5/9 5/23 6/2 6/12 6/23 10/25 11/8 12/2 13/22 14/3 14/8 14/12 14/21 15/2 15/13 15/17 16/6 16/12 16/19 17/1 17/15 17/18 18/1 18/14 30/1 30/14 32/1 33/4 42/7 44/25 45/14 45/22 46/4 46/7 46/13 46/17 48/19 50/15 51/11 52/23 54/6 58/4 59/10 76/3 89/14 91/4 100/19 101/5 101/8 101/10 101/13 101/17 101/23 MR. CRAWFORD: [9] 4/12 20/3 23/12 27/23 28/4 28/9 28/13 28/16 100/21 MR. HENRY: [10] 5/24 6/3 6/7 55/14 55/18 72/20 73/3 89/9 91/6 91/9 THE COURT: [64] 4/2 4/11 4/15 5/1 5/8 5/20 5/25 6/6 6/8 6/11 6/21 10/24 11/1 12/1 13/20 13/23 14/7 14/10 14/19 14/22 15/11 15/16 15/23 16/11 16/16 16/25 17/13 17/16 17/25 18/13 20/1 23/11 27/21 28/3 28/6 28/12 28/15 29/13 30/3 30/6 30/12 45/11 45/20 46/2 46/5 46/12 46/15 53/9 55/16 59/5 59/8 72/25 89/12 91/5 91/8 100/12 100/20 100/24 101/7 101/9 101/11 101/15 101/19 101/24 THE REPORTER: [2] 6/20 58/2 THE WITNESS: [1] 30/10</p>	<p>'15 [1] 65/3 '22 [3] 65/3 81/18 83/25 '50s [1] 38/2 '60s [1] 38/2 '96 [3] 36/9 73/22 96/1 'an [1] 24/19 'constitute [1] 24/8 - -5 million [1] 38/1 -o0o [1] 102/1 / /s/Heather [1] 102/6 1 10 [21] 8/10 8/11 8/11 32/12 32/14 46/9 52/7 53/23 54/9 55/8 56/23 57/12 58/16 82/8 82/17 82/23 92/14 94/9 94/9 94/10 99/10 10 percent [1] 54/25 10-minute [1] 59/6 100 percent [1] 51/19 102 [3] 32/2 44/25 45/23 103 [4] 48/19 48/22 48/25 49/10 104 [2] 48/9 56/1 105 [7] 48/6 48/7 54/6 54/8 54/14 59/14 59/18 106 [2] 53/16 58/23 107 [4] 50/15 58/25 59/22 59/23 108 [3] 61/19 62/11 63/19 11 [6] 40/18 40/23 57/22 58/14 72/13 79/1 11.052 [2] 11/4 27/17 110 [3] 81/15 81/16 82/8 115 [1] 58/22 11:30 [1] 101/11 11:30 Thursday [1] 101/14 12 [2] 49/1 81/16 129 [3] 48/5 48/6 48/7 13 [5] 38/1 98/25 99/7 99/8</p>	<p>100/8 139 [3] 76/3 76/6 77/14 13th [1] 38/4 140 [1] 18/22 1400 [1] 1/16 15 [2] 5/4 102/5 15 percent [4] 11/4 27/18 27/20 28/18 15,000 [1] 11/4 1500-plus [1] 96/12 17 [1] 43/5 1700 [1] 1/20 18-year-old [1] 13/6 19 [1] 43/5 1946 [1] 22/15 1954 [1] 8/25 1955 [1] 8/25 1982 [1] 15/21 1996 [2] 31/12 83/14 1997 [2] 1/5 4/4 1:00 [1] 1/7 2 2 percent [1] 49/14 20 percent [2] 25/19 26/14 2004 [2] 31/18 38/17 2007 [5] 27/3 84/8 98/21 100/6 100/9 2008 [1] 38/8 2012 [1] 79/10 2015 [9] 21/25 22/1 22/14 22/15 26/17 31/14 31/19 38/16 83/14 2017 [3] 70/14 72/13 72/19 2020 [1] 23/19 2021 [2] 48/25 57/24 2022 [4] 61/21 63/3 83/7 83/25 2024 [4] 1/11 3/3 22/4 102/5 214 [1] 1/21 228-6601 [1] 1/17 24 [6] 42/8 42/11 42/13 44/6 65/13 65/16 25 [8] 12/18 79/9 80/2 80/11 81/1 81/21 83/23 85/25</p>
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<p>2 Case 4:21-cv-01997 Document 122 Filed 09/20/24 in TDCS Page 104 of 138</p> <p>250-5584 [1] 2/4 250-plus [1] 76/18 26 [5] 61/20 79/9 80/3 80/11 85/25 27 percent [1] 49/13 2:14 [1] 59/7 2:29 [1] 59/7</p>	<p>610 [2] 32/11 32/14 6601 [1] 1/17</p> <p>7</p> <p>7 percent [1] 49/13 70 [2] 22/16 22/18 713 [2] 1/17 2/4 717 [1] 1/16 74 [1] 6/4 75 percent [1] 37/20 75069 [1] 1/20 77002 [2] 1/16 2/4 78-year [1] 22/18</p>	<p>academically [1] 93/8 Academy [1] 34/16 acceptable [1] 15/10 accepted [2] 17/21 18/1 accepting [1] 96/2 access [4] 80/14 81/2 96/9 97/1 accomplished [1] 31/11 accomplishments [1] 37/1 according [1] 78/4 account [5] 21/4 21/12 21/16 21/17 61/6 accountability [7] 27/14 61/21 61/22 61/24 65/2 65/3 94/3 accounted [1] 22/17 accounting [1] 22/18 accurate [3] 49/3 92/3 98/24 achieve [1] 93/2 achievement [8] 62/11 62/13 62/18 62/18 62/21 62/22 63/15 64/18 achieving [2] 93/17 93/19 acknowledged [2] 13/3 24/25 across [12] 9/10 51/20 54/10 68/16 70/8 70/8 71/25 86/22 93/20 94/22 95/3 96/10 act [22] 7/19 8/3 9/24 10/7 10/7 10/23 11/12 11/21 11/25 15/22 16/21 16/23 16/23 16/24 17/7 19/11 20/6 20/12 20/13 25/11 29/12 68/24 action [4] 1/5 4/4 39/20 40/5 active [2] 40/15 40/25 activity [1] 41/3 actual [5] 25/19 26/14 58/8 62/18 62/23 actually [19] 23/15 39/8 39/23 42/17 43/11 52/8</p>
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<p>4</p> <p>4-year [1] 37/10 4000 [1] 1/21 42 [5] 33/4 36/2 36/24 40/17 44/14 44 [1] 53/18 450 [1] 61/6 4:21-CV-1997 [1] 1/5</p>	<p>9</p> <p>9 percent [1] 54/25 90 percent [1] 51/25 90 percent-plus [1] 86/19 955 [1] 82/5 99.72 [1] 51/19</p>	
<p>5</p> <p>5 percent [1] 49/14 50 percent [4] 21/2 22/11 97/10 97/11 515 [1] 2/3 52 [1] 29/19 52.8 percent [2] 25/16 26/11 53.33 percent [1] 25/6 544-4000 [1] 1/21 55 percent [1] 37/21 5584 [1] 2/4 56 percent [1] 25/2 57 percent [1] 49/6 58 [2] 9/7 25/16 58 percent [2] 50/10 88/2 59 percent [2] 9/7 49/13 594 [1] 37/25</p>	<p>A</p> <p>Abernathy [1] 1/19 ability [12] 7/6 10/17 12/2 13/13 19/14 24/23 25/8 28/22 87/13 87/13 88/5 101/16 able [8] 9/18 32/9 40/22 69/20 79/18 87/14 88/16 97/1 above [3] 16/2 16/3 102/3 ABRAMS [9] 1/14 4/9 6/11 6/14 20/1 26/3 27/16 30/13 59/9 Abrams' [1] 27/21 abundant [1] 17/2 academic [7] 7/16 8/14 8/17 37/20 64/22 67/22 76/7</p>	
<p>6</p> <p>60 [1] 22/16</p>		

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